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UNITED STATES DEPARTMENT OF AGRICULTURE  
AGRICULTURAL MARKETING SERVICE

Service and Regulatory Announcements No. 156

RULES AND REGULATIONS  
UNDER THE FEDERAL SEED ACT

RULES AND REGULATIONS OF THE SECRETARY OF  
AGRICULTURE AND JOINT RULES AND REGULATIONS  
OF THE SECRETARY OF AGRICULTURE AND THE  
SECRETARY OF THE TREASURY

FEDERAL SEED ACT OF AUGUST 9, 1939  
(53 STAT. 1275)

Issued March 1940





# United States Department of Agriculture

AGRICULTURAL MARKETING SERVICE

SERVICE AND REGULATORY ANNOUNCEMENTS NO. 156

## RULES AND REGULATIONS UNDER THE FEDERAL SEED ACT

### RULES AND REGULATIONS OF THE SECRETARY OF AGRICULTURE FOR THE ENFORCEMENT OF THE FED- ERAL SEED ACT OF AUGUST 9, 1939

UNITED STATES DEPARTMENT OF AGRICULTURE,  
OFFICE OF THE SECRETARY,  
*Washington, D. C.*

Pursuant to and under and by virtue of the authority and direction of section 402 of the Federal Seed Act (53 Stat. 1275), and after public hearing held on November 27, 1939, notice of which was promulgated in the Federal Register of October 11, 1939, I hereby make, prescribe, publish, and give public notice of the following rules and regulations for the enforcement of the Federal Seed Act. These rules and regulations shall become and be effective as to agricultural seeds on February 5, 1940, and as to vegetable seeds in interstate commerce on August 9, 1940.

(Title 7, Ch. 1, Pt. 201 of the Code of Federal Regulations)

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Artichoke— <i>Cynara scolymus</i> L.	Kale— <i>Brassica oleracea acephala</i> DC.
Asparagus— <i>Asparagus officinalis</i> L.	Kohlrabi— <i>Brassica oleracea caulorapa</i> DC.
Bean, garden— <i>Phaseolus vulgaris</i> L.	Leek— <i>Allium porrum</i> L.
Bean, lima— <i>Phaseolus lunatus macrocarpus</i> Van Eseltine	Lettuce— <i>Lactuca sativa</i> L.
Bean, horse or broad— <i>Vicia faba</i> L.	Muskmelon— <i>Cucumis melo</i> L.
Beets— <i>Beta vulgaris</i> L.	Mustard (cultivated)— <i>Brassica juncea</i> (L.) Coss.
Broccoli— <i>Brassica oleracea botrytis</i> L.	Okra— <i>Hibiscus esculentus</i> L.— <i>Abelmoschus esculentus</i> (L.) Moench.
Brussels sprouts— <i>Brassica oleracea gemmifera</i> Zenker	Onion— <i>Allium cepa</i> L.
Cabbage— <i>Brassica oleracea capitata</i> L.	Parsley— <i>Petroselinum hortense</i> Hoffm.
Carrot (cultivated)— <i>Daucus carota</i> L.	Parsnip (cultivated)— <i>Pastinaca sativa</i> L.
Cauliflower— <i>Brassica oleracea botrytis</i> L.	Peas, garden— <i>Pisum sativum</i> L.
Celeriac— <i>Apium graveolens rapaceum</i> DC.	Pepper— <i>Capsicum</i> spp. L.
Celery— <i>Celeri graveolens</i> or <i>Apium graveolens</i> L.	Pumpkin— <i>Cucurbita pepo</i> L.
Chicory— <i>Cichorium intybus</i> L.	Radish— <i>Raphanus sativus</i> L.
Citron (Melon)— <i>Citrullis vulgaris</i> Schrad.	Rhubarb— <i>Rheum rhabonticum</i> L.
Collards— <i>Brassica oleracea acephala</i> DC.	Rutabaga— <i>Brassica campestris napobrassica</i> DC.
Corn, sweet— <i>Zea mays</i> L.	Salsify— <i>Tragopogon porrifolius</i> L.
Cress, garden— <i>Lepidium sativum</i> L.	Sorrel (cultivated)— <i>Rumex acetosa</i> L.
Cress, water— <i>Roripa nasturtium-aquatica</i> (L.) Britt. and Rendle.	Spinach— <i>Spinacia oleracea</i> L.
Cucumber— <i>Cucumis sativus</i> L.	Spinach—New Zealand— <i>Tetragonia expansa</i> Thumb.
Dandelion— <i>Leontodon taraxacum</i> L.	Squash— <i>Cucurbita</i> sp. L.
Eggplant— <i>Solanum melongena</i> L.	Swiss chard— <i>Beta vulgaris cicla</i> L.
Endive— <i>Cichorium endivia</i> L.	Tomato— <i>Lycopersicon esculentum</i> Mill.
Fetticus—Cornsalad— <i>Valerianella locusta olitoria</i> Poll.- <i>V. locusta</i> (L.) Bettke.	Tomato, husk— <i>Physalis pubescens</i> L.
	Turnip— <i>Brassica rapa</i> L.
	Watermelon— <i>Citrullis vulgaris</i> Schrad.

(j) *Regulations.*—The term "regulations" means the rules and regulations promulgated by the Secretary of Agriculture and the joint rules and regulations promulgated by the Secretary of the Treasury and the Secretary of Agriculture under the act.

(k) *Joint regulations.*—The term "joint regulations" means the joint rules and regulations promulgated by the Secretary of the Treasury and the Secretary of Agriculture.

(l) *Complete record.*—The term "complete record" means information which relates to the origin, germination, or purity of each lot of agricultural seed handled. Such information includes declarations, labels, seed samples, records of purchases and sales, cleaning and bulking, handling, storage, analyses, tests, and examinations pertaining to the origin, germination, or purity of any lot of seed.

The complete record kept by each person for each lot of seed consists of the information pertaining to his own transactions, and the information received pertaining to each lot of seed handled. The record shall be kept in such manner as to permit comparison with the records kept by other persons for the same lot of seed, so that the origin, germination, or purity may be traced from the grower to the ultimate consumer, and so that the lot of seed may be correctly labeled.

(m) *Declaration.*—The term "declaration" means a written statement of a grower, shipper, processor, dealer, or importer giving for any lot of seed the kind, variety, type, origin, or the use for which the seed is intended.

(n) *Declaration of origin.*—The term "declaration of origin" means a declaration of a grower or country shipper in the United States stating for each lot of agricultural seed (a) kind of seed, (b) lot number or other identification, (c) State where seed was grown and the county where grown if to be labeled showing the origin as a portion of a State, (d) quantity of seed, (e) date shipped or delivered, (f) to whom sold, shipped, or delivered, and (g) the signature and address of the grower or country shipper issuing the declaration. If the declaration is issued by a grower and the identity of the person delivering the seed is unknown to the receiver, the motor-vehicle license number or other identification of the delivering agency should be entered on the declaration by the receiver. If a country shipper's declaration includes seed shipped or delivered to him by another

country shipper, it shall give for each lot the other country shipper's lot number as included in the other country shipper's declaration of origin.

(o) *Declaration of kind, variety, or type.*—The term "declaration of kind, variety, or type" means a declaration of a grower stating for each lot of seed (a) the name of the kind, variety, or type stated in accordance with Sections 201.9 to 201.12, (b) lot number or other identification, (c) place where seed was grown, (d) quantity of seed, (e) date shipped or delivered, (f) to whom sold, shipped, or delivered, and (g) the signature and address of the grower issuing the declaration.

(p) *Mixture.*—The term "mixture" means seeds consisting of more than one kind or variety, each present in excess of 5 percent of the whole.

(q) *Handling seed.*—The term "handling seed" includes transportation, warehousing, cleaning, processing, merchandising, labeling, and any other operation connected with the handling of seed in the seed business.

(r) *Grower.*—The term "grower" means any person who produces directly or through a growing contract, or is a seed-crop sharer in seed which is sold, offered for sale, transported, or offered for transportation.

(s) *Country shipper.*—The term "country shipper" means any person located in a producing area who purchases seed locally for shipment to seed dealers or to other country shippers.

(t) *Dealer.*—The term "dealer" means any person who cleans, processes, sells, offers for sale, transports, or delivers for transportation seeds in interstate commerce.

(u) *Consumer.*—The term "consumer" means any person who purchases or otherwise obtains seed for sowing but not for resale.

(v) *Lot of seed.*—The term "lot of seed" means a definite quantity of seed identified by a lot number, every portion or bag of which is uniform, within permitted tolerances, for the factors which appear in the labeling.

(w) *Purity.*—The term "purity" means the name or names of the kind, type, or variety and the percentage or percentages thereof; the percentage of other agricultural seed or crop seed; the percentage of weed seeds, including noxious-weed seeds; the percentage of inert matter; and the names of the noxious-weed seeds and the rate of occurrence of each.

(x) *Certified seed or registered seed.*—The terms "certified seed" and "registered seed" mean seed that has been produced and labeled in accordance with the procedures and in compliance with the rules and regulations of an officially recognized seed-certifying agency.

(y) *Hybrid seed corn.*—The term "hybrid seed corn" means the first-generation seed of a cross produced by controlling the pollination, and by combining two, three, or four inbred lines, or by combining one inbred line or a single cross with an open-pollinated variety. Hybrid designations shall be treated as variety names.

## ADMINISTRATION

**201.3 Chief of Service.**—The Chief or Acting Chief of the Agricultural Marketing Service shall perform such duties as the Secretary may require in enforcing the provisions of the act and of these regulations.

## RECORDS FOR AGRICULTURAL SEEDS

**201.4 Maintenance and accessibility.**—Each person handling agricultural seed subject to the act shall keep for a period of 3 years a complete record of each lot of agricultural seed handled, except that any seed sample may be discarded 1 year after the entire lot represented by such sample has been disposed of by such person. Each person shall retain a sample representing each lot of agricultural seed shipped by him in interstate commerce, and shall retain such additional samples as are required by the regulations. The record shall be accessible for inspection by the authorized agents of the Secretary in connection with the administration of the act at any time during customary business hours.

**201.5 Origin.**—The complete record for any lot of seed of alfalfa, red clover, or field corn, except hybrid seed corn, shall include a declaration of origin, or information traceable to a declaration of origin or evidence showing that a declaration of origin could not be obtained.

Each country shipper shall retain a copy of each declaration which he issues and shall attach thereto a detailed record showing the names and addresses of growers or country shippers from whom the seed was purchased, the quantity of seed purchased from each, and the date on which it was delivered to him.

Each country shipper shall retain a sample of each lot of seed not produced locally and which is covered by a declaration of origin. Each dealer shall retain a sample of each lot of seed purchased directly from a grower when such seed is covered by a declaration of origin and has not been produced in the vicinity of the dealer's place of business.

**201.6 Germination.**—The complete record shall include the records of all laboratory tests for germination and hard seed for each lot of seed offered for transportation in whole or in part. The record shall show the kind of seed, lot number, date of test, percentage of germination and hard seeds, and such other information as may be necessary to show the method used.

**201.7 Purity.**—The complete record for any lot of seed shall include (a) records of analyses, tests, and examinations including statements of weed seeds, noxious-weed seeds, inert matter, other agricultural seeds, and of any determinations of kind, variety, or type and a description of the methods used; and (b) for seeds indistinguishable by seed characteristics, records necessary to disclose the kind, variety, or type, including a grower's declaration of kind, variety, or type, and a representative sample of the seed received from the grower. The grower's declaration and the sample shall be obtained and kept by the person procuring the seed from the grower.

### LABELING AGRICULTURAL SEEDS

**201.8 Contents of the label.**—The label shall contain the required information in any form that is clearly legible. The information may be on a tag attached securely to the container, or may be printed in a conspicuous manner on a side or the top of the container. The information required for labeling seed in bulk shall appear in the invoice. The label may contain information in addition to that required by the act, provided such information is not misleading.

**201.9 Kind.**—The name of each kind of seed present in excess of 5 percent shall be shown on the label and need not be accompanied by the word "kind." When two or more kinds of seed are named on the label, the name of each kind shall be accompanied by the percentage of each. When only one kind of seed is present in excess of 5 percent and no variety name or type designation is shown, the percentage of that kind may be shown as "pure seed" and such percentage shall apply only to seed of the kind named.

**201.10 Variety.**—If the name of the variety is given, the name may be associated with the name of the kind with or without the words "kind and variety." The percentage in such case, which may be shown as "pure seed," shall apply only to seed of the variety named. If separate percentages for the kind and the variety are shown, the name of the kind and the name of the variety shall be clearly associated with the respective percentages. When two or more varieties are present in excess of 5 percent and are named on the label, the name of each variety shall be accompanied by the percentage of each.

**201.11 Type.**—When type is designated, such designation may be associated with the name of the kind but shall in all cases be clearly associated with the word "type." The percentage, which may be shown as "pure seed," shall apply only to the type designated. If separate percentages for the kind and the type are shown, such percentages shall be clearly associated with the name of the kind and the name of the type.

If the type designation does not include a variety name, it shall include a name descriptive of a group of varieties of similar character and the pure seed shall be at least 90 percent of one or more varieties all of which conform to the type designation.

If the name of a variety is used as a part of the type designation, the seed shall be of that variety and may contain: (1) an admixture of seed of other indistinguishable varieties of the same kind and of similar character; or, (2) an admixture of indistinguishable seeds having genetic characteristics dissimilar to the variety named by reason of cross-fertilization with other varieties. In either case, at least 90 percent of the pure seed shall be of the variety named or upon growth shall produce plants having characteristics similar to the variety named.

**201.12 Name of kind, variety, or type.**—The representation of kind, variety, or type shall be confined to the recognized name of the kind, variety, or type. It shall not have affixed thereto names or terms that create a misleading impression as to the history or quality of the seed.

**201.13 Lot number or other identification.**—The lot number or other identification shall be shown on the label and shall be the same as that used in the records pertaining to the same lot of seed.

**201.14 Origin.**—Alfalfa, red clover, and field corn (except hybrid seed corn) shall be labeled to show: (1) the origin, if known; or, (2) if the origin is not known, the statement "origin unknown."

Whenever such seed originates in more than one State, the name of each State and the percentage of seed originating in each State shall be given in the order of its predominance. Whenever such seed originates in a portion of a State, it shall be permissible to label such seed as originating in such portion of a State.

Proper precautions to insure that the origin of seed is known shall include the maintaining of a record as described in section 201.5. The examination of the seed and any pertinent facts may be taken into consideration in determining whether proper precautions have been taken to insure the origin to be that which is represented.

**201.15 Weed seeds.**—The percentage of weed seeds shall include seeds of plants considered weeds in the State into which the seed is offered for transportation or transported and shall include noxious-weed seeds.

**201.16 Noxious-weed seeds.**—The names of the kinds of noxious-weed seeds and the rate of occurrence of each shall be expressed in the label in accordance with, and the rate of occurrence shall not exceed the rate permitted by, the law and regulations of the State into which the seed is offered for transportation or is transported.

**201.17 Noxious-weed seeds in the District of Columbia.**—Noxious-weed seeds in the District of Columbia are: quackgrass (*Agropyron repens*), Canada thistle (*Cirsium arvense*), bindweed (*Convolvulus arvensis*), Bermuda grass (*Cynodon dactylon*), and wild onion bulblets (*Allium vineale*). The name and number per ounce of each kind of such noxious-weed seeds present shall be shown on the label.

**201.18 Other agricultural seeds (crop seeds).**—Agricultural seeds other than those included in the percentage or percentages of kind, variety, or type may be expressed as "crop seeds" or "other crop seeds," but the percentage shall include collectively all kinds, varieties, or types not named upon the label.

**201.19 Inert matter.**—The label shall show the percentage by weight of inert matter.

**201.20 Germination.**—The label shall show the percentage of germination for each agricultural seed present in excess of 5 percent.

**201.21 Hard seed.**—The label shall show the percentage of hard seed, if any is present, and the percentage of hard seed shall not be included as part of the germination percentage.

**201.22 Date of test.**—The label shall show the month and year in which the germination test was completed. No more than 5 calendar months shall have elapsed between the last day of the month in which the germination test was completed and the date of transportation or delivery for transportation in interstate commerce.

**201.23 Name of shipper or consignee.**—The full name and address of either the shipper or consignee shall appear upon the label. If the name and address of the shipper are not shown upon the label, a code designation identifying the shipper shall be shown.

**201.24 Code designation.**—The code designation used in lieu of the full name and address of the person who transports or delivers seed for transportation in interstate commerce shall be approved by the Chief of the Agricultural Marketing Service or such other person as may be designated by him for the purpose. When used, the code designation shall appear on the label in a clear and legible manner.

#### LABELING VEGETABLE SEEDS

**201.25 Contents of the label.**—Vegetable seed in packets and in larger containers shall be labeled with the required information in any form that is clearly legible. Any tag used shall be securely attached to the container. The label may contain information in addition to that required by the act, provided such information is not misleading.

**201.26 Kind and variety.**—The label or the face of the container shall bear the name of the kind and variety of the seed.

**201.27 Name of shipper or consignee.**—The full name and address of either the shipper, or consignee, shall appear upon the label except that if the name and address of the shipper are not shown, a code designation identifying the shipper shall be shown.

**201.28 Code designation.**—The code designation used in lieu of the full name and address of the person who transports or delivers seed for transportation in

interstate commerce shall be approved by the Chief of the Agricultural Marketing Service or such other person as may be designated by him for the purpose. When used, the code designation shall appear on the label in a clear and legible manner.

**201.29 Germination equal to or above standard.**—Vegetable seeds which have a germination equal to or better than the standard set forth in section 201.31, need not bear a statement showing the percentage of germination.

**201.30 Germination below standard.**—Vegetable seeds which have a germination percentage less than the standard set forth in section 201.31 shall have the words, "Below Standard," clearly shown in a conspicuous place on the label or on the face of the container, in type no smaller than 8 point. The seed shall also be labeled to show the percentage of germination and the percentage of any hard seed present. The percentage of hard seed shall not be included in the percentage of germination. No more than 5 calendar months shall have elapsed between the last day of the month in which the germination test was completed and the date of transportation or delivery for transportation in interstate commerce.

**201.31 Germination standards for vegetable seeds in interstate commerce.**—The following germination standards for vegetable seeds in interstate commerce are determined and established under section 403 (c) of the act:

	Percent		Percent
Artichoke	60	Leek	60
Asparagus	170	Lettuce	80
Beans (except lima)	80	Muskmelon	75
Beans, lima	70	Mustard	75
Beets	65	Okra	50
Broccoli	75	Onion	70
Brussels sprouts	70	Parsley	60
Cabbage	75	Parsnip	60
Carrot	55	Peas	80
Cauliflower	75	Pepper	55
Celery and celeriac	55	Pumpkin	75
Chicory	65	Radish	75
Citron	65	Rhubarb	60
Collards	80	Rutabaga	75
Corn	75	Salsify	75
Cress, garden	40	Sorrel	60
Cress, water	25	Spinach (except New Zealand)	60
Cucumber	80	Spinach, New Zealand	40
Dandelion	45	Squash	75
Eggplant	60	Swiss chard	65
Endive	70	Tomato	75
Fetticus (cornsalad)	70	Tomato, husk	50
Kale	75	Turnip	80
Kohlrabi	75	Watermelon	70

<sup>1</sup> Including hard seeds.

## LABELING IN GENERAL

**201.32 Screenings.**—Screenings shipped in interstate commerce, if in containers, shall be labeled in a legible manner with letters not smaller than 18 point type and, if in bulk, shall be invoiced with the words, "Screenings for processing—not for seeding."

**201.33 Seed for cleaning or processing.**—Seed transported to a seed-cleaning or processing establishment for cleaning or processing, if in bulk, shall be invoiced, or if in bags, shall be labeled with the words "Seed for processing." If such seed is covered by a declaration of origin, kind, variety, or type, the lot designation appearing in the declaration shall be placed on the invoice, if the seed is in bulk, or on the label if the seed is in containers.

**201.34 Kind, variety, or type of indistinguishable seeds.**—Proper precautions to insure that the kind or variety or type of indistinguishable agricultural or vegetable seeds is properly stated shall include the maintaining of the records described in section 201.7. The examination of the seed and any pertinent facts may be taken into consideration in determining whether proper precautions have been taken to insure the kind, variety, or type to be that which is shown.

**201.35 Blank spaces.**—Blank spaces on the label shall be deemed to imply the word "None," when such interpretation is reasonable.

**201.36 The words "free" and "none."**—The words "free" and "none" shall be construed to mean that none were found in a test complying with the methods set forth in sections 201.45 to 201.52.

## INSPECTION

**201.37 State cooperation.**—When authorized by the Chief of the Agricultural Marketing Service or such other person as may be designated by him for the purpose, qualified State officials, for the purposes of the act, may draw samples of, secure information and records pertaining to, and otherwise inspect seeds and screenings subject to the act.

**201.38 Importations.**—Prior to release into the commerce of the United States, imported seed and screenings shall be inspected as provided in sections 201.208 and 201.209.

## SAMPLING IN THE ADMINISTRATION OF THE ACT

**201.39 General procedure.**—(a) In order to secure a representative sample, equal portions shall be taken from evenly distributed parts of the quantity of seed or screenings to be sampled. Access shall be had to all parts of that quantity.

(b) For free-flowing seed in bags or bulk, a probe or trier shall be used. For small free-flowing seed in bags a probe or trier long enough to sample all portions of the bag should be used.

(c) Non-free-flowing seed, such as certain grass seed, uncleared seed, or screenings, difficult to sample with a probe or trier, shall be sampled by thrusting the hand into the bulk and withdrawing representative portions.

(d) The portions shall be combined into a composite sample or samples.

(e) As the seed or screenings is sampled, each portion shall be examined, and, whenever there appears to be lack of uniformity, additional samples shall be taken to show such lack of uniformity as may exist.

**201.40 Bulk.**—Bulk seeds or screenings shall be sampled by inserting a long probe or thrusting the hand into the bulk as circumstances require in at least seven uniformly distributed parts of the quantity being sampled.

**201.41 Bags.**—(a) In quantities of five bags or less each bag shall be sampled.

(b) In quantities of more than five bags, at least every fifth bag but not less than five bags shall be sampled.

(c) Samples shall be drawn from unopened bags except under circumstances where the identity of the seed has been preserved.

**201.42 Packets.**—In sampling seed in packets, entire unopened packets shall be taken.

**201.43 Size of sample.**—The following are minimum weights of samples of seed to be submitted for analysis, test, or examination:

(a) Two ounces of grass seed not otherwise mentioned, white or alsike clover, or seeds not larger than these.

(b) Five ounces of red or crimson clover, alfalfa, ryegrasses, bromegrasses, millet, flax, rape, or seeds of similar size.

(c) Two pounds of cereals, vetches, or seeds of similar or larger size.

(d) Two quarts of screenings.

**201.44 Forwarding samples.**—Before being forwarded for analysis, test, or examination, the containers of samples shall be properly sealed and identified in such manner as may be prescribed by the Agricultural Marketing Service.

## PURITY ANALYSIS IN THE ADMINISTRATION OF THE ACT

**201.45 Obtaining the working sample.**—The working sample on which the actual analysis is made shall be taken from the submitted sample in such a manner that it will be representative.

With free-flowing seed, some form of efficient mechanical divider shall be used. With nonfree-flowing seed of a character that a mechanical divider cannot be used, the sample shall be mixed and placed in a pile and divided into halves. The sample shall be repeatedly divided to the weight to be used for the working sample and weighed as required by section 201.46.

**201.46 Weight of working sample.**—For the detailed purity analysis except for the determination of noxious-weed seeds the working sample shall be at least the following weight for the different groups of seeds:

(1) One gram: *Agrostis* spp.; *Poa* spp.; Rhodes grass; Bermuda grass.

(2) Two grams: Timothy; orchard grass; fescues (excepting meadow fescue); alsike and white clover; carrot; reed canary grass; Dallis grass.

(3) Five grams: Ryegrass (*Lolium*) ; meadow fescue ; foxtail millet ; alfalfa ; red clover ; sweetclovers ; lespedezas.

(4) Ten grams: Smooth brome ; crimson clover ; *Brassica* spp. ; flax ; *Agropyron* spp.

(5) Twenty-five grams: Proso ; Sudan grass.

(6) Fifty grams: Sorghums ; buckwheat ; beet.

(7) One hundred grams: Vetches ; cereals (except corn).

(8) Five hundred grams: Corn ; beans ; peas ; cowpeas ; soybeans.

For any kind of seed not listed, use a weight that will give approximately 3,000 seeds (table 1).

TABLE 1.—Number of crop seeds per unit weight

Kind of seed	Minimum weight for purity analyses	Approximate seeds per gram	Approximate seeds per ounce	Kind of seed	Minimum weight for purity analyses	Approximate seeds per gram	Approximate seeds per ounce
	Grams	Number	Number	Millet:	Grams	Number	Number
Alfalfa.....	5	500	14,170	Foxtail.....	5	470	13,320
Barley.....	100	30	850	Proso.....	25	180	5,100
Beet.....	50	54	1,530	Oatgrass, tall.....	10	330	9,350
Bentgrass.....	1	18,000	510,300	Oats.....	100	28	790
Bluegrass:				Rape, winter.....	10	230	6,520
Canada.....	1	5,500	155,920	Redtop.....	1	11,000	311,850
Kentucky.....	1	4,800	136,000	Rye.....	100	40	1,130
Rough.....	1	5,600	158,760	Ryegrass:			
Brome, smooth.....	10	300	8,500	Italian.....	5	500	14,170
Buckwheat.....	50	45	1,275	Perennial.....	5	500	14,170
Carrot.....	2	900	25,510	Short-seeded perennial.....	5	700	19,840
Clover:				Sorghum:			
Alsike.....	2	1,500	42,520	Amber.....	50	55	1,560
Crimson.....	10	330	9,350	Kafir.....	50	50	1,420
Red.....	5	600	17,010	Sweetclover.....	5	570	16,160
White.....	2	1,500	42,520	Timothy.....	2	2,500	70,870
Dogtail, crested.....	2	1,900	53,860	Turnip.....	10	340	9,640
Fescues, fine-leaved.....	2	1,200	34,000	Vernalgrass, sweet.....	2	1,600	45,360
Fescue:				Vetch:			
Hair.....	1	3,200	90,720	Common.....	100	19	538
Meadow.....	5	500	14,170	Hairy.....	100	36	1,000
Flax.....	10	300	8,500	Wheat.....	100	25	708
Foxtail, meadow.....	2	1,200	34,000	Wheatgrass:			
Grass:				Crested.....	10	425	12,050
Bermuda.....	1	3,940	111,700	Slender.....	10	340	9,640
Orchard.....	2	1,150	32,600				
Reed, canary.....	2	1,200	34,000				
Sudan.....	25	120	3,400				
Velvet.....	2	2,500	70,870				
Lespedeza:							
Chinese, hulled.....	5	820	23,250				
Common, unhulled.....	5	750	21,260				
Korean, unhulled.....	5	525	14,880				

201.47 Separation.—The working sample shall be weighed in grams to four significant figures and then separated into four parts: (1) kind, variety, or type to be considered pure seed; (2) other crop seed; (3) weed seeds; and (4) inert matter.

Each of these four component parts shall be weighed in grams to the same number of decimal places as the working sample and the percentage by weight of each part (based on the sum of the weights of the component parts and not on the original weight) shall be determined. The sum of the weights of the component parts shall be compared with the original weight of the working sample as a check against loss of material or other error. In the case of other crop seed and weed seed, the seeds of each species shall be separated where possible and the number or weight of each kind determined. The separation of the seed of the kind, variety, or type considered pure seed must be on such a basis that the separation can be made definitely by seed characteristics, except that when the sample contains two or more similar kinds of seeds the separation of which in the entire working sample would be very difficult, it is permissible to separate and weigh the similar seeds as a group. From this mixture at least 400 seeds are to be counted indiscriminately and the separation made on this portion. The

proportion of each kind is then determined by weight, and from this the percentage in the entire sample is calculated.

201.48 **Kind, variety, or type considered pure seed.**—The pure seed shall include all seeds of the kind, variety, or type under consideration whether shriveled, cracked, or otherwise injured, and pieces of broken seeds larger than one-half the original size.

201.49 **Other crop seed.**—Seeds of plants locally grown as crops, other than the kind, variety, or type included in the pure seed each kind, variety, or type of which is present in a proportion not in excess of 5 percent of the whole, shall be considered other crop seeds, unless designated as weed seeds.

201.50 **Weed seed.**—Seeds of plants recognized as weeds by laws or official regulations or by general usage shall be considered weed seeds: *Provided*, That undeveloped and badly injured weed seeds, including noxious-weed seeds, which upon visual examination are clearly incapable of growth shall be considered inert matter and not weed seed. When a weed seed is present that is exceedingly small (e. g., *Juncus tenuis*) and would not add more than 0.1 percent to the percentage of weed seed, it need not be separated with the weed seeds, but may be included with the inert matter. However, the presence of the weed seed shall be recorded.

201.51 **Inert matter.**—Broken seeds when one-half or less; seeds of legumes or crucifers with the seed coats removed; undeveloped and badly injured weed seeds such as sterile dodder which, upon visual examination, are clearly incapable of growth; empty glumes of grasses; attached sterile glumes of grasses (which must be removed from the fertile glumes except in Rhodes grass); dirt, stones, chaff, fungus bodies (such as ergot and other sclerotia and smut balls), and any matter other than seeds shall be considered inert matter.

201.52 **Noxious-weed seeds.**—The determinations of the number of seeds of individual noxious weeds present per unit weight shall be made on at least the following minimum quantities for the various classes of seeds listed in section 201.46 (Weight of working sample): (1) 25 grams; (2), (3), and (4) 50 grams; (5) 150 grams; (6) 300 grams; (7) and (8) 500 grams. When a quantity other than the required minimum is analyzed, or additional portions are analyzed, the final result shall be the average of all of the determinations.

## GERMINATION TESTS IN THE ADMINISTRATION OF THE ACT

201.53 **Source of seeds for germination.**—Seeds for germination shall be taken from the separation of the kind, variety, or type considered pure seed and shall be counted without discrimination as to size or appearance.

201.54 **Number of seeds for germination.**—At least 400 seeds shall be tested for germination. These seeds shall be tested in separate tests of 100 seeds or less.

201.55 **Retests.**—Retests shall be made if there is a difference of 10 percent between any two of the separate hundred seeds tested when the average of the tests is 80 percent or above, and if there is a difference of 15 percent when the average is below 80 percent; otherwise, the average of the tests shall be considered the result of the test.

201.56 **Interpretation.**—A seed shall be considered to have germinated when it has developed into a normal seedling. Broken seedlings and weak, malformed, and obviously abnormal seedlings shall not be considered to have germinated.

201.57 **Hard seeds.**—Seeds which remain hard at the end of the prescribed test because they have not absorbed water, due to an impermeable seed coat, are to be counted as "hard seed."

201.58 **Method of testing for germination.**—Table 2.

TABLE 2.—*Methods for laboratory germination*

Name of seed	Substrata <sup>1</sup>	Tempera-ture	First count	Final count	Remarks
Alfalfa— <i>Medicago sativa</i> .....	B, S	° C. 20	Days 3	Days 7	
Bahia grass— <i>Paspalum notatum</i> .....	P	20-35	7	90	Light; potassium nitrate; prechill fresh seed for 4 weeks at 5° C. <sup>2</sup>
Barley— <i>Hordeum vulgare</i> .....	T, S	20	3	7	Fresh seed prechill 5 days at 5° or 10° C.
Bean, field— <i>Phaseolus vulgaris</i> .....	R, S	20-30	5	8	
Bean, velvet— <i>Stizolobium utile</i> .....	S	20-30	3	14	
Bean, Mung— <i>Phaseolus aureus</i> .....	R, S	20-30	3	7	
Beet, field (not sugar)— <i>Beta vulgaris</i> .....	B	20-30	3	14	Soak in water 2 hours before testing. Wash in running water after soaking.
Bentgrass:					
Creeping (seaside):					
<i>Agrostis palustris</i> .....	P	20-30	7	28	Light; potassium nitrate.
Highland:					
<i>Agrostis tenuis</i> var.....	P	20-30	7	28	Do.
<i>Agrostis spp</i> .....	P	20-30	7	21	Do.
Bermuda grass— <i>Cynodon dactylon</i> .....	P	20-35	7	21	Do.
Bluegrass:					
Annual— <i>Poa annua</i> .....	P	20-30	7	21	Light.
Canada— <i>Poa compressa</i> .....	P	20-30	7	28	Light; potassium nitrate.
Kentucky— <i>Poa pratensis</i> .....	P	20-30	7	28	Light.
Rough— <i>Poa trivialis</i> .....	P	20-30	7	21	Do.
Wood— <i>Poa nemoralis</i> .....	P	20-30	7	28	Do.
Bluestem— <i>Agropyron smithii</i> .....	P	20-30	7	35	Light; fresh seed potassium nitrate and 15° C.
Brome, smooth— <i>Bromus inermis</i> .....	P, TB	20-30	6	14	Light.
Broomecorn— <i>Sorghum vulgare technicus</i> .....	B, S	20-30	3	10	
Buckwheat— <i>Fagopyrum vulgare</i> .....	B, T	20-30	3	6	
Carpet grass— <i>Axonopus compressus</i> .....	P	20-35	10	21	Light.
Chickpea— <i>Cicer arietinum</i> .....	R, S	20-30	3	7	
Clovers:					
Alsike— <i>Trifolium hybridum</i> .....	B, S	20	3	7	
Berseem— <i>Trifolium alexandrinum</i> .....	B, S	20	3	7	
Bur— <i>Medicago arabica</i> and <i>Medicago hispida</i> .	B, T	20	4	14	
Crimson— <i>Trifolium incarnatum</i> .....	B, S	20	3	7	
Persian— <i>Trifolium resupinatum</i> .....	B	20	3	7	
Red— <i>T. ifolium pratense</i> .....	B, S	20	3	7	
Sour— <i>Melilotus indica</i> .....	B	20	3	14	
Strawberry— <i>Trifolium fragiferum</i> .....	B	20	3	7	
Subterranean— <i>Trifolium subterraneum</i> .....	B	20	4	14	Fresh seed 15° C.
Suckling— <i>Trifolium dubium</i> .....	B	20	4	14	
Sweet— <i>Melilotus alba</i> and <i>Melilotus officinalis</i> .	S, B	20	3	7	
White— <i>Trifolium repens</i> .....	B, S	20	3	10	
Cotton— <i>Gossypium hirsutum</i> .....	T, S	20-30	4	12	"Prewet" seed on retest. <sup>3</sup>
Cowpeas— <i>Vigna sinensis</i> .....	R, S	20-30	5	8	Watch for weevil injury to plumule.
Corn, field— <i>Zea mays</i> .....	R, S	20-30	4	7	
Corn, pop— <i>Zea mays everta</i> .....	R, S	20-30	4	7	
Crested dogtail— <i>Cynosurus cristatus</i> .....	P	20-30	10	21	Light; fresh seed prechill for 3 days at 5° or 10° C.
Crotalaria— <i>Crotalaria intermedia</i> and <i>C. spectabilis</i> .	B, S	20-30	3	10	
Dallis grass— <i>Paspalum dilatatum</i> .....	P	20-35	7	21	Light; fresh seed potassium nitrate.
Fescue:					
Hair— <i>Festuca capillata</i> .....	P	10-25	10	28	Potassium nitrate.
Meadow— <i>Festuca elatior</i> .....	P	20-30	5	14	
Other fescues.....	P	15-25	7	21	
Flax— <i>Linum usitatissimum</i> .....	TB	20-30	3	7	
Guinea grass— <i>Panicum maximum</i> .....	P	20-30	10	28	
Kudzu— <i>Pueraria thunbergiana</i> .....	T	20-30	5	14	
Lespedeza:					
Chinese— <i>Lespedeza sericea</i> .....	B, S	20-35	7	28	
Common— <i>Lespedeza striata</i> .....	B	20-35	7	14	
Korean— <i>Lespedeza stipulacea</i> .....	B	20-35	5	14	
Lupine— <i>Lupinus luteus</i> .....	B, T	20	7	21	
Meadow foxtail— <i>Alopecurus pratensis</i> .....	P	20-30	7	14	Light.
Medick, black— <i>Medicago lupulina</i> .....	B, S	20	3	7	

<sup>1</sup> Substrata: B = between blotters; TB = top of blotters; T = paper toweling; R = rolled towel test; S = soil or sand; TS = top of soil; P = petri dishes with 2 thicknesses of blotters or 1 thickness of absorbent cotton or 5 thicknesses of paper toweling.

<sup>2</sup> Treatment with approximately (75 percent) sulfuric acid from 45 to 90 minutes will cause seed to grow at 20-35 light without prechilling or potassium nitrate. Time limits for treatment vary with thickness of glumes on individual sample.

<sup>3</sup> "Prewet" method on cotton; shake seed in a closed container, thoroughly wetting the "fuzz" of the seed. Blot off all excess moisture and put in to germinate. If the prewet test is higher report both it and the standard germination.

TABLE 2.—*Methods for laboratory germination—Continued*

Name of seed	Sub-strata	Tem-perature	First count	Final count	Remarks
Millet:		° C.	Days	Days	
Brown top— <i>Panicum fasciculatum</i>	B	20-30	4	14	
Foxtail, German, Hungarian, or Golden— <i>Setaria italica</i> .	B	20-30	4	10	
Japanese— <i>Echinochloa crusgalli frumentacea</i> .	B	20-30	4	10	
Pearl— <i>Pennisetum glaucum</i> -----	B	20-30	3	7	
Proso— <i>Panicum miliaceum</i> -----	B	20-30	3	7	
Molasses grass— <i>Melinis minutiflora</i> -----	P	20-30	7	21	Light.
Napier grass— <i>Pennisetum purpureum</i> -----	B	20-30	3	10	
Oats— <i>Avena sativa</i> -----	T, S	20	4	10	Fresh seed prechill for 5 days at 5° or 10° C.
Oatgrass, tall— <i>Arrhenatherum elatius</i> -----	P	20-30	6	14	Light.
Orchard grass— <i>Dactylis glomerata</i> -----	S, P	20-30	7	18	Germination more rapid in soil; light on Petri dish tests.
Peas, field— <i>Pisum sativum arvense</i> -----	R, S	20	3	8	
Rape— <i>Brassica napus</i> -----	B	20-30	3	7	
Redtop— <i>Agrostis alba</i> -----	T, B, P	20-30	5	10	Light.
Reed Canary grass— <i>Phalaris arundinacea</i> .	P	20-30	5	21	Light; fresh seed potassium nitrate.
Rescue grass— <i>Bromus catharticus</i> -----	P	20-30	7	35	Light; fresh seed potassium nitrate and 15-25° C.
Rhodes grass— <i>Chloris gayana</i> -----	P	20-30	6	14	Light.
Rice— <i>Oryza sativa</i> -----	B, T	20-30	3	10	
Rye— <i>Secale cereale</i> -----	T, S	20	3	7	
Ryegrass:					
Italian— <i>Lolium multiflorum</i> -----	P, TB	20-30	5	14	Light; fresh seed potassium nitrate.
Perennial— <i>Lolium perenne</i> -----	P, TB	20-30	5	14	Light.
Sainfoin— <i>Onobrychis viciaefolia</i> -----	B	20-30	4	10	
Sorghum:					
Grain— <i>Sorghum vulgare</i> -----	B, S	20-30	3	10	
Sweet (sorgo)— <i>Sorghum vulgare</i> -----	B, S	20-30	3	10	Fresh seed prechill at 5° or 10° C. for 5 days.
Soybean— <i>Soyja max</i> -----	R, T, S	20-30	5	8	
Sudan grass— <i>Sorghum vulgare sudanense</i> .	B, S	20-30	3	10	
Sweet vernalgrass— <i>Anthoxanthum odoratum</i> .	P	20-30	6	14	Light.
Timothy— <i>Phleum pratense</i> -----	P, TB	20-30	5	10	Light; fresh seed potassium nitrate.
Velvetgrass— <i>Holcus lanatus</i> -----	P	20-30	6	14	Light.
Vetch:					
Common— <i>Vicia sativa</i> -----	T	20	3	10	
Hairy— <i>Vicia villosa</i> -----	T	20	3	14	
Hungarian— <i>Vicia pannonica</i> -----	T	20	3	10	
Monantha— <i>Vicia monantha</i> -----	T	20	3	10	
Narrowleaf— <i>Vicia angustifolia</i> -----	T	20	4	14	
Purple— <i>Vicia atropurpurea</i> -----	T	20	3	10	
Woolypod— <i>Vicia dasycarpa</i> -----	T	20	4	14	
Wheat:					
Common—spelt and emmer <i>Triticum aestivum</i> .	T, S	20	3	7	Fresh seed prechill at 5° or 10° C. for 5 days.
Durum— <i>Triticum aestivum</i> -----	T, S	20	3	10	Fresh seed prechill at 5° or 10° C. for 5 days.
Wheatgrass:					
Crested— <i>Agropyron cristatum</i> -----	P, TB	20-30	5	14	Light; fresh seed 15° C.
Slender— <i>Agropyron pauciflorum</i> -----	P, TB	20-30	5	14	Light.
VEGETABLES AND HERBS					
Artichoke— <i>Cynara scolymus</i> -----	T	20-30	7	21	
Asparagus— <i>Asparagus officinalis</i> -----	T	20-30	7	21	
Beans:					
Garden— <i>Phaseolus vulgaris</i> -----	R, S	20-30	5	8	Watch for "baldhead" and other injuries.
Horse or broad— <i>Vicia faba</i> -----	S	20	4	10	
Lima— <i>Phaseolus lunatus</i> -----	R, S	20-30	5	9	Watch for "baldhead" and other injuries.
Beet, Swiss chard and mangel— <i>Beta vulgaris</i> .	B	20-30	8	14	Soak in water 2 hours before testing. Wash in running water after soaking.
Brassica oleracea varieties: Cabbage, collards, kale, brussels sprouts, cauliflower, broccoli, and kohlrabi.	B	20-30	8	10	
Carrot— <i>Daucus carota</i> -----	B	20-30	6	28	
Celeriac— <i>Apium graveolens</i> var. <i>rapaceum</i> .	P, TB	20-30	10	21	Light.
Celery— <i>Celeri graveolens</i> var. <i>dulce</i> -----	B, TB	20-30	10	21	Do.
Chicory— <i>Cichorium intybus</i> -----	P, TS	20-30	5	14	Light; potassium nitrate or soil.
Citron— <i>Citrullus vulgaris</i> -----	T	20-30	7	14	
Corn, sweet— <i>Zea mays</i> -----	R, S	20-30	4	7	

TABLE 2.—*Methods for laboratory germination—Continued*

Name of seed	Sub-strata	Tem- pera- ture	First count	Final count	Remarks
Cornsalad—Fetticus— <i>Valerianella lo-custa</i> var. <i>olitoria</i> .	B	° C. 20	Days 7	Days 28	Fresh seed 10° or 15° C.
Cress:					
Garden— <i>Lepidium sativum</i> -----	B	20	4	10	
Water— <i>Roripa nasturtium-aquaticum</i> .	P	20	4	10	
Cucumber— <i>Cucumis sativus</i> -----	T, S, B	20-30	3	7	
Dandelion— <i>Leontodon taraxacum</i> -----	TB	20	7	21	
Eggplant— <i>Solanum melongena</i> var. <i>esculentum</i> .	TB	20-30	7	14	
Endive— <i>Cichorium endivia</i> -----	P, TS	20-30	5	14	Light; potassium nitrate or soil.
Leek— <i>Allium porrum</i> -----	B	20	6	14	
Lettuce— <i>Lactuca sativa</i> -----	P	20	3	5	Light for ½ hour; fresh seed prechill at 10° or 15° C. for 3 days.
Muskmelon— <i>Cucumis melo</i> -----	B, T, S	20-30	4	10	
Mustard—India, <i>Brassica juncea</i> -----	P	20-30	3	7	Light; fresh seed potassium nitrate and prechill at 10° C. for 3 days.
Okra— <i>Hibiscus esculentum</i> -----	R	20-30	4	21	
Onion— <i>Allium cepa</i> -----	B, S	20	5	14	
Parsley— <i>Petroselinum hortense</i> -----	B	20-30	11	28	
Parsnip— <i>Pastinaca sativa</i> -----	B	20-30	6	28	
Peas, garden— <i>Pisum sativum</i> -----	R, S	20	5	8	
Pepper— <i>Capsicum</i> spp-----	TB	20-30	6	14	
Pumpkin— <i>Cucurbita pepo</i> -----	T, S	20-30	4	7	
Radish— <i>Raphanus sativus</i> -----	B	20	3	6	
Rhubarb— <i>Rheum rhaboticum</i> -----	TS	20-30	7	21	Light.
Rutabaga— <i>Brassica napobrassica</i> -----	B	20-30	3	7	
Salsify— <i>Tragopogon porrifolius</i> -----	T	20	5	10	Fresh seed prechill at 10° C. for 3 days.
Sorrel— <i>Rumex acetosa</i> -----	TS	20-30	3	14	Light.
Spinach:					
Common— <i>Spinacea oleracea</i> -----	TB	10	7	21	
New Zealand— <i>Tetragonia expansa</i> -----	TS	20-30	5	28	Not too wet.
Squash— <i>Cucurbita</i> sp-----	T, S	20-30	4	7	
Tomato:					
Common— <i>Lycopersicon esculentum</i> -----	B	20-30	5	14	
Husk— <i>Physalis pubescens</i> -----	P, TB	20-30	7	28	Light.
Turnip— <i>Brassica rapa</i> -----	B	20-30	3	7	
Watermelon— <i>Citrullus vulgaris</i> -----	T, S	20-30	4	14	

## TOLERANCES

201.59 Application.—The following tolerances shall be recognized between the percentages or rates of occurrence found by analysis, test, or examination in the administration of the act and percentages or rates of occurrence required or stated as required by the act. Unless otherwise provided, the tolerances shall be determined by applying the formulae to the percentages or rates of occurrence found in the administration of the act.

201.60 Purity percentages.—In the determination of the tolerance for the percentage of the distinguishable kind, type, or variety (pure seed), weed seeds, other crop seeds, and inert matter, the sample shall be first considered as made up of two parts: (a) The percentage of the component (pure seed, weed seed, crop seed or inert matter as the case may be) being considered, and (b) the difference between that percentage and 100. The number represented by (a) is then multiplied by the number represented by (b) and the product is divided by 100. The resulting number is then multiplied by 0.2 (2/10) and the resulting product added to 0.2 or 0.6 as indicated in the following formulae:

$$\text{Pure seed tolerance} = 0.6 + \left( 0.2 \times \frac{a \times b}{100} \right)$$

$$\text{Weed seeds, other crop seeds and inert matter tolerance} = 0.2 + \left( 0.2 \times \frac{a \times b}{100} \right)$$

For *Poa* spp., *Agrostis* spp., *Festuca* spp., bromegrass, crested wheatgrass, orchard grass, velvet grass, tall oatgrass, meadow foxtail, sweet vernalgrass, Rhodes grass, Dallis grass, carpet grass, and Bermuda grass, and mixtures containing these seeds singly or combined in excess of 50 percent, an additional tolerance shall be allowed. This is to be obtained by adding to the regular tolerance mentioned above the product obtained by multiplying the regular tolerance by the lesser of "a" and "b" divided by 100.

**201.61 Germination.**—The following tolerances are applicable to the percentage of germination and also to the sum of the germination plus the hard seed.

Found by test:	Tolerance	Found by test:	Tolerance
96 or over-----	5	70 or over but less than 80-----	8
90 or over but less than 96-----	6	60 or over but less than 70-----	9
80 or over but less than 90-----	7	Less than 60-----	10

**201.62 Pure live seed.**—The tolerance for pure live seed shall be determined by applying the respective tolerances to the germination plus the hard seed and the pure seed.

**201.63 Noxious-weed seeds in interstate commerce.**—The following tolerances for rates of occurrence of noxious-weed seeds shall be recognized and shall be applied to the number of noxious-weed seeds found by analysis in the quantity of seed specified for noxious-weed seed determinations in section 201.52. Representations showing the rate of occurrence indicated in columns 2 and 4 will be considered within the tolerance if no more than the accompanying number in columns 1 and 3 are found by analysis in the administration of the act. For rates of occurrence higher than those shown in the table and in case of additional or more extensive analyses, a tolerance based on a degree of certainty of 5 percent ( $P=0.05$ ) will be recognized.

Number found by analysis	The following are within the tolerance	Number found by analysis	The following are within the tolerance
2	0	18	11
4	1	20	12
6	2	21	13
8	3	22	14
9	4	23	15
11	5	24	16
12	6	25	17
13	7	27	18
14	8	28	19
16	9	29	20
17	10	30	21

**201.64 Noxious-weed seeds in imported seed.**—The tolerance applicable to the rate of occurrence of noxious-weed seeds in imported seeds shall be six-tenths of the permissible number of seeds.

#### EXAMINATIONS IN THE ADMINISTRATION OF THE ACT

**201.65 Indistinguishable seed.**—When the identification of the kind, variety, or type of seed is not possible by seed characteristics, identification may be based upon the seedling, growing plant, or mature plant characteristics according to such authentic information as is available.

**201.66 Origin.**—The presence of incidental weed seeds, foreign matter, or any other existing circumstances shall be considered in determining the origin of seed.

#### IMPORTED SEED

**201.101 Exemptions.**—For the purposes of section 302 (c) (2) of the act, seeds of the following kinds are found to be imported in a substantial proportion for other than seeding purposes and are exempted from the import provisions (title III) of the act when imported for other than seeding purposes: *Provided*, That they are accompanied by declarations when and as required under section 201.222:

Barley.	Oat.
Beans, field.	Pea.
Buckwheat, common.	Pepper.
Celery.	Proso.
Corn, field.	Rice.
Cowpea.	Rye.
Flax.	Sorghum.
Millet, foxtail, German, Hungarian, or golden.	Soybeans.
Mustard.	Wheat.

**201.102 Pure live seed.**—For the purposes of section 304 (c) of the act, the following percentages for the kinds stated will be construed to meet the import requirements of the act as to pure live seed:

	Percent		Percent
Bahia grass	50	Leek	65
Bluegrass, <i>Poa</i> spp	65	Molasses grass	25
Beets	70	Okra	60
Carrots	55	Parsley	65
Celeriac	60	Parsnip	65
Celery	60	Pepper	65
Chicory	70	Rhubarb	65
Dallis grass	35	Sorrel	65
Eggplant	65	Spinach, New Zealand	50
Guinea grass	10	Rhodes grass	35

**201.103 Unadapted alfalfa and red clover.**—Alfalfa seed and red clover seed of the following indicated origins have been determined to be not adapted for general agricultural use in the United States:

(a) Seed of alfalfa grown in the region commonly referred to as Turkestan and including both Chinese Turkestan and the area formerly known as Russian Turkestan. For the purpose of this regulation the area formerly known as Russian Turkestan will be considered that region in central Asia bounded by the Caspian Sea on the west, by Persia and Afghanistan on the south, by Chinese Turkestan on the east, and by the forty-fifth parallel north latitude on the north;

(b) Seed of alfalfa grown in Africa;

(c) Seed of alfalfa grown in South America;

(d) Seed of red clover grown in Italy.

**201.104 Staining of imported seed.**—(a) 10 percent of the seed in each container of the seed of alfalfa grown in the region commonly referred to as Turkestan and including both Chinese Turkestan and the area formerly known as Russian Turkestan shall be stained purple red;

(b) 10 percent of the seed in each container of seed of alfalfa grown in Africa shall be stained red;

(c) 10 percent of the seed in each container of seed of alfalfa grown in South America shall be stained orange red;

(d) 10 percent of the seed in each container of seed of red clover grown in Italy shall be stained red;

(e) 1 percent of the seed in each container of alfalfa or red clover of Canadian origin shall be stained violet;

(f) 5 percent of the seed in each container of alfalfa or red clover of an origin not otherwise provided for shall be stained green;

(g) 10 percent of the seed in each container of alfalfa or red clover shall be stained red (1) if the origin of the alfalfa or red clover is unestablished, (2) if the origins of the alfalfa or red clover are such as to require different colors, and (3) if the alfalfa or red clover of foreign origin has been commingled with seed of the same kind grown in the United States.

**201.105 Method of staining.**—The stain shall be in the form of a solution of such concentration as to stain the seeds distinctly with the colors prescribed. The designated portion of the seed to be stained shall be completely and distinctly stained the prescribed color and blended with the unstained seed in accordance with instructions that may be issued from time to time by the Agricultural Marketing Service.

**201.106 Supervision of staining.**—Seed required to be stained and found not to have been stained prior to arrival in the United States shall not be permitted entry until it has been stained under the supervision of an employee or authorized agent of the United States Department of Agriculture. The staining in such case shall be at the expense of the importer, who shall also reimburse the Government for the expenses of travel required to perform such supervision.

**201.107 Weed seeds.**—Seeds or bulblets of all plants belonging to the following plant families, except those listed as agricultural or vegetable seeds, or recognized as seeds of ornamentals, shall be considered weed seeds when occurring in importations subject to the act.

#### PLANT FAMILIES

Amaranthaceae—Amaranth or pigweed.	Chenopodiaceae—Goosefoot.
Apocynaceae—Dogbane.	Commelinaceae—Spiderwort.
Boraginaceae—Borage.	Compositae—Composite or daisy.
Caryophyllaceae—Pink.	Convolvulaceae—Morning-glory.

Cruciferae—Mustard.	Plantaginaceae—Plantain.
Cyperaceae—Sedge.	Polygonaceae—Buckwheat or smartweed.
Dipsacaceae—Teasel.	Portulacaceae—Purslane.
Euphorbiaceae—Spurge.	Primulaceae—Primrose.
Geraniaceae—Geranium.	Ranunculaceae—Buttercup.
Gramineae—Grass.	Resedaceae—Mignonette.
Hypericaceae—St. Johnswort.	Rosaceae—Rose.
Juncaceae—Rush.	Rubiaceae—Madder.
Labiatae—Mint.	Scrophulariaceae—Figwort.
Leguminosae—Legume.	Solanaceae—Nightshade.
Liliaceae—Lily.	Umbelliferae—Parsley.
Malvaceae—Mallow.	Urticaceae—Nettle.
Onagraceae—Evening-primrose.	Verbenaceae—Verbena.
Papaveraceae—Poppy.	Zygophyllaceae—Caltrop.

The following agricultural and vegetable seeds to be considered weed seeds when occurring incidentally in importations of other agricultural or vegetable seeds:

Barley, wild— <i>Hordeum</i> spp., except <i>vulgare</i> .	Grass, velvet— <i>Holcus lanatus</i> L.
Chicory— <i>Cichorium intybus</i> L.	Mustard— <i>Brassica juncea</i> .
Dandelion— <i>Leontodon taraxacum</i> L.	Oat, wild— <i>Avena</i> spp., except <i>A. sativa</i> and <i>A. byzantina</i> .
Grass, Bermuda— <i>Cynodon dactylon</i> (L.) Pers.	Rattail fescue— <i>Festuca myuros</i> .
Grass, Dallis— <i>Paspalum dilatatum</i> Poir.	Sorrel— <i>Rumex acetosa</i> L.

201.108 Noxious-weed seeds.—Seeds of the following plants shall be considered noxious-weed seeds when in imported seed:

<i>Lepidium draba</i> L., <i>Lepidium repens</i> (Schrenk), <i>Hymenophysa pubescens</i> C. A. Mey.—Whitetop.	<i>Sorghum halepense</i> (L.) Pers.—Johnson grass.
<i>Cirsium arvense</i> (L.)—Canada thistle.	<i>Convolvulus arvensis</i> L.—Bindweed.
<i>Cuscuta</i> spp.—Dodder.	<i>Centaurea picris</i> Pall.—Russian knapweed.
<i>Agropyron repens</i> (L.) Beauv.—Quackgrass.	<i>Sonchus arvensis</i> L.—Perennial sow-thistle.
	<i>Euphorbia esula</i> L.—Leafy spurge.

## RULES OF PRACTICE

201.151 Institution of proceedings.—Any person having information of any violation of the act or of any of the regulations promulgated thereunder may file with the Chief of the Agricultural Marketing Service an application requesting the Secretary to institute such proceedings as may be authorized under the act. Such application shall be in writing, signed by or on behalf of the applicant, and shall contain a short and simple statement of the facts constituting the alleged violation and the name and address of the applicant and the party complained of. If, after investigation of the matters complained of in the application or after investigation made on his own motion, the Secretary has reason to believe that any person has violated or is violating any of the provisions of the act or the regulations made and promulgated thereunder, he may institute such proceeding as may be authorized by the act.

201.152 Status of applicant.—The person filing an application shall not be a party to any proceeding which may be instituted under the act, unless he be permitted by the Secretary or by the examiner to intervene therein. The Chief of the Agricultural Marketing Service shall not be required to divulge the name of the applicant and such person will have no legal status in the proceeding which may be instituted, except where allowed to intervene or as such person may be called as a witness. At any time after the institution of the proceeding, and before it has been submitted to the Secretary for final consideration, the Secretary or the examiner may, upon petition in writing and upon good cause shown, permit any person to intervene.

201.153 Docket number.—Each proceeding instituted under the act shall be assigned a docket or file number and thereafter the proceeding shall be referred to by such number.

201.154 Cease and desist proceedings.—(a) *Complaint and notice of hearing.*—If, upon investigation, made either on his own motion or upon application, the Secretary shall have reason to believe that any person has violated or is violating any of the provisions of the act or of any of the regulations promulgated thereunder, he may cause a complaint in writing to be served upon such person, as the respondent. The complaint shall state the charges and shall require the respondent to attend and testify at a hearing at a time and place designated in the complaint, the designated time being at least 30 days after date of the service of the complaint. At any time prior to the close of the hearing, the complaint may be amended; but, in case of an amendment adding new provisions, the hearing shall, on the request of the respondent, be adjourned for a period not exceeding 15 days.

(b) *Answer.*—In case of a desire to contest the proceeding, the respondent shall within 20 days from the service of the complaint, file with the hearing clerk an answer to the complaint, in triplicate, signed by the respondent or his attorney. Such answer shall contain a concise statement of the facts which constitute the ground of defense. The respondent shall specifically admit or explain each of the facts alleged in the complaint unless respondent is without knowledge, in which case, respondent shall so state. Failure of the respondent to file an answer within the time above provided, and failure to appear at the time and place fixed for hearing, shall be deemed to authorize the Secretary, without further notice to respondent, to proceed in the regular course on the charges set forth in the complaint.

If the respondent desires to waive hearing on the allegations of fact set forth in the complaint and not to contest the facts, the answer may consist of a statement that respondent admits all the material allegations of fact charged in the complaint to be true. Respondent by such answer shall be deemed to have waived a hearing on the allegations of fact set forth in said complaint and to have authorized the Secretary, without further evidence, or other intervening procedure, to find such facts to be true, and, if in the judgment of the Secretary such admitted facts constitute a violation of law as charged in the complaint, to make and serve upon the said respondent findings as to the facts and an order to cease and desist from continuing such violations. Upon application in writing made contemporaneously with the filing of such answer, the respondent, in the discretion of the Secretary, may be heard on brief, in oral argument, or both, solely on the question as to whether the facts so admitted constitute the violation or violations of law charged in the complaint.

(c) *Conduct of hearing.*—The Secretary shall designate an employee of the Department of Agriculture to act as examiner to conduct the hearing, and such examiner shall have and may exercise all authority granted under section 413 of the act. In the conduct of the hearing, the examiner may rule upon any motion filed, or may reserve the matter for the subsequent ruling of the Secretary. He may rule upon the admissibility of evidence, but he shall admit all relevant and material evidence. The respondent or respondents may appear in person or by counsel and the Department shall be represented by an attorney designated by the Solicitor of the Department. The persons who appear as counsel at the hearing must conform to the standards of ethical conduct required of practitioners before the courts of the United States.

The burden of proof shall be upon the Secretary, as the moving party in the proceeding, and the evidence offered by the Department shall be first presented.

The testimony of the witnesses at the hearing shall be upon oath or affirmation administered by the examiner. Any witness may, in the discretion of the examiner, be examined separately and apart from all other witnesses except those who may be parties to the proceeding. The right of cross-examination shall obtain.

If a party objects to the admission of any evidence, or to the rejection of any evidence, or to the limitation of the scope of any examination or cross-examination, he shall state briefly the grounds of such objection, and the transcript shall not include argument or debate thereon except as ordered by the examiner. Such objections shall be made before the examiner in order to be subsequently relied upon in the proceeding. Ruling by the examiner on such objections shall be a part of the transcript.

A true copy of every written entry in the records of the Department, made by an officer or employee thereof in the course of his official duty, and relevant to the issues involved in the hearing, shall be admissible as *prima facie* evi-

dence of the facts stated therein, without the production of such officer or employee.

The deposition of any witness, taken after reasonable notice to the opposite party or parties and at a time and place and before a person designated for the purpose by the Secretary, or by the examiner, shall be admitted, if the evidence is otherwise admissible.

When practicable to do so, a copy of each exhibit shall be furnished to the opposing party or parties either before or at the time of its introduction.

Judicial notice, on request, will be taken of such matters as are noticed by the courts of the United States.

(d) *Proposed findings of fact, conclusions, and order.*—Within 10 days (unless a longer period of time shall be permitted by the examiner) after the filing of the transcript with the hearing clerk, as provided in paragraph (e) below, any party (including the Department) may file with the hearing clerk proposed findings of fact, conclusions, and order, based solely on the evidence at the hearing, and briefs in support thereof.

(e) *Filing the transcript of evidence.*—The examiner shall, as soon as practicable after the close of a hearing, notify the hearing clerk of its close and of the time for filing proposed findings of fact, conclusions, and order, and furnish the hearing clerk with such other information as may be necessary. As soon as practicable after the close of the hearing, the examiner shall transmit to the hearing clerk an original and two copies of the transcript of the testimony and the original and all copies of exhibits introduced in evidence at the hearing. He shall attach to the original transcript of the evidence a certificate stating that the transcript is a true transcript of the testimony offered or received at the hearing, except in such particulars as he shall specify, and that the exhibits transmitted are all the exhibits introduced at the hearing, with such exceptions as he shall specify. A copy of such certificate shall be attached to each of the two copies of the transcript of evidence. In accordance with such certificate, the hearing clerk shall note upon the original and each copy of the transcript each correction detailed therein by adding or crossing out at the appropriate place any words necessary to make the text conform to the correct meaning.

(f) *Copies of the transcript of the testimony, etc.*—Any party to the proceeding desiring a copy of the transcript of the testimony or any written exhibit, or proposed findings of fact, or brief, shall be entitled to the same upon application to the hearing clerk and upon payment of fees therefor, as provided by regulation 1532 of the General Regulations, United States Department of Agriculture.

(g) *Examiner's report.*—The examiner, within a reasonable time after the termination of the period allowed for the filing of proposed findings of fact and briefs in support thereof, shall prepare, upon the basis of the evidence received at the hearing, a report containing his tentative findings of fact, conclusions, and order, a copy of which shall be served by the hearing clerk upon each of the parties, including the Department.

(h) *Exceptions.*—Within 20 days after service of the examiner's report (unless the time is extended by the examiner), any party who wishes to take exception to any matter set out in such report shall transmit such exceptions in writing to the hearing clerk, referring to the relevant pages of the transcript, and suggesting a corrected finding of fact. Within the same period of time, each party shall transmit in writing to the hearing clerk a brief statement concerning each of the objections taken to the action of the presiding officer at the hearing, as set out in subsection (c) above, upon which he wishes to rely, referring, where relevant, to the pages of the transcript of evidence. A party, if he files exceptions, shall state in writing whether he desires to make an oral argument thereon before the Secretary.

(i) *Transmittal of record.*—The examiner, immediately following the termination of the period allowed for the filing of exceptions, shall transmit to the Secretary the record of the proceedings. Such record shall include: the pleadings; the transcript of the evidence taken at the hearing; such proposed findings of fact, conclusions, and order, and briefs in support thereof, as may have been filed in connection with the hearing; the examiner's report; and the exceptions filed, if any.

(j) *Oral argument.*—In the event that an oral argument before the Secretary has been duly requested, a date for such argument shall be fixed by the Secretary or by the Under Secretary or the Assistant Secretary, if designated by the Secretary to act in his stead.

Done at Washington, D. C., this 2d day of January 1940. Witness my hand  
and the seal of the Department of Agriculture.

H. A. WALLACE,  
*Secretary of Agriculture.*



[F. R. Doc. 40-44; Filed, January 3, 1940; 12:08 p. m.]

# JOINT RULES AND REGULATIONS OF THE SECRETARY OF AGRICULTURE AND THE SECRETARY OF THE TREASURY FOR THE ENFORCEMENT OF THE FED- ERAL SEED ACT OF AUGUST 9, 1939.<sup>2</sup>

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UNITED STATES DEPARTMENT OF AGRICULTURE,  
OFFICE OF THE SECRETARY,  
*Washington, D. C.*

Pursuant to and under and by virtue of the authority and direction of section 402 of the Federal Seed Act (53 Stat. 1275), and after public hearing held on November 27, 1939, notice of which was promulgated in the Federal Register of October 11, 1939, we hereby make, prescribe, publish, and give public notice of the following joint rules and regulations for the enforcement of the Federal Seed Act. These joint rules and regulations shall become and be effective on February 5, 1940.

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(Title 7, Ch. 1, Pt. 201 of the Code of Federal Regulations)  
(Treasury Decision No. 50071)

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## DEFINITIONS

201.201 Agricultural seeds.—The term "agricultural seeds" means those seeds so defined in the regulations of the Secretary of Agriculture.

201.202 Vegetable seeds.—The term "vegetable seeds" means those seeds so defined in the regulations of the Secretary of Agriculture.

<sup>2</sup> The joint regulations (S. R. A.-B. P. I. 17, as amended) issued under the Seed Importation Act, approved August 24, 1912, as amended, August 11, 1916, and April 26, 1926 (87 Stat. 506, 39 Stat. 453, 44 Stat. 325; 7 U. S. C. 111-116), are repealed effective February 5, 1940.

**201.203 Screenings.**—The term "screenings" means chaff, sterile florets, immature seed, weed seed, inert matter, and any other materials removed in any way from any seeds in any kind of cleaning or processing and which contains less than 25 percent of live agricultural or vegetable seeds.

**201.204 Agricultural Marketing Service.**—The term "Agricultural Marketing Service" means the Agricultural Marketing Service of the United States Department of Agriculture.

**201.205 Collector of customs.**—The term "collector of customs" includes any person authorized under the customs laws and regulations to perform the duties of a collector of customs.

**201.206 Pure live seed.**—The term "pure live seed" means the product of the percentage of germination plus the hard seed and the percentage of pure seed, divided by 100.

**201.207 Other definitions.**—The definitions for the purposes of title III of the Federal Seed Act shall include all other definitions in the regulations of the Secretary of Agriculture under the act.

## SAMPLING

**201.208 Seed.**—The collector of customs shall draw and forward samples of all seeds imported or offered for importation into the United States; except that barley, field bean, common buckwheat, field corn, cowpea, flax, oats, rice, rye, soybean, and wheat shall be sampled only when imported for seeding purposes, and when declared for seeding purposes. When an importation consists of more than one lot, each lot shall be sampled separately.

**201.209 Screenings.**—The collector of customs shall upon request received prior to importation from the Chief of the Agricultural Marketing Service draw and forward samples of all screenings imported or offered for importation into the United States.

**201.210 Method of sampling.**—(a) In order to secure a representative sample, equal portions shall be taken from evenly distributed parts of the quantity of seed or screenings to be sampled. Access shall be had to all parts of that quantity.

(b) For free-flowing seed in bags or bulk, a probe or trier shall be used. For small free-flowing seed in bags a probe or trier long enough to sample all portions of the bag should be used.

(c) Non-free-flowing seed, such as grass seed, uncleaned seed, or screenings, difficult to sample with a probe or trier, shall be sampled by thrusting the hand into the bulk and withdrawing representative portions.

(d) The portions shall be combined into a composite sample.

**201.211 Bulk.**—Bulk seeds or screenings shall be sampled by inserting a long probe or thrusting the hand into the bulk as circumstances require in at least seven uniformly distributed parts of the quantity being sampled.

**201.212 Bags.**—(a) When an importation consists of five bags or less each bag shall be sampled.

(b) When an importation consists of more than five bags, every fifth bag but not less than five bags shall be sampled.

(c) When an importation consists of more than 200 bags, a separate composite sample shall be taken for each 200 bags or portion thereof.

**201.213 Size of sample.**—Samples of agricultural seed shall be not less than 1 quart. Samples of screenings shall be not less than 2 quarts. Samples of vegetable seed shall be not less than 1 pint, except that samples of one-fourth pint will be sufficient from importations of 5 pounds or less. Unused portions of samples of rare or expensive seeds will be returned by the Agricultural Marketing Service upon request of the importer.

**201.214 Sealing and identifying samples.**—Before being forwarded for analysis, test, or examination, the container of each sample shall be properly sealed, and identified in accordance with section 201.215.

**201.215 Statement to accompany samples.**—All samples shall be accompanied by a statement containing the following information:

## ENFORCEMENT OF THE FEDERAL SEED ACT

Port of entry-----	Entry No.-----
Date of entry-----	Invoice No.-----
Invoiced at-----	
Kind of seed-----	Screenings-----
Consignor-----	
Address of consignor-----	
Entered by-----	
Ultimate consignee-----	
Address of ultimate consignee-----	(Street) (City) (State)
Gross weight-----	
Total number of bags-----	
Number of bags represented by sample-----	
Price per unit weight-----	
Total invoice value-----	
Distinguishing mark-----	
Steamer-----	
Country of origin-----	
Declared for-----	

(Indicate for seeding or for processing)

**201.216 Forwarding samples.**—Unless otherwise requested by the Agricultural Marketing Service, the samples from the various ports shall be forwarded to the seed laboratories as indicated below:

1. *Federal Seed Act laboratory, Agricultural Marketing Service, United States Department of Agriculture, Washington, D. C.*—All ports in the States of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, Ohio, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, and Louisiana, and the ports of Chicago, Illinois, and Port Huron and Detroit, Michigan.

2. *Federal-State seed-testing laboratory, Agricultural Experiment Station, Lafayette, Ind.*—All ports in the States of Indiana, Illinois (except the port of Chicago), Kentucky, Tennessee, Wisconsin, Minnesota, and Michigan (except Port Huron and Detroit).

3. *Federal-State seed-testing laboratory, College of Agriculture, Columbia, Mo.*—All ports in the States of Iowa, Missouri, Arkansas, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Colorado, Texas, and New Mexico.

4. *Federal-State seed-testing laboratory, Agricultural Experiment Station, Corvallis, Oreg.*—All ports in the States of Montana, Wyoming, Idaho, Washington, and Oregon.

5. *Federal-State seed-testing laboratory, State Department of Agriculture, Sacramento, Calif.*—All port in the States of California, Nevada, Utah, Arizona, and Territory of Hawaii.

**201.217 Notice to consignee.**—The collector of customs shall immediately notify the owner or consignee that samples of seeds or screenings have been drawn and that the shipment shall be held intact pending a decision of the Agricultural Marketing Service in the matter.

**201.218 Delivery under bond.**—After samples of seed or screenings offered for importation into the United States from any foreign country have been drawn, such seed or screenings shall be admitted into the commerce of the United States only after the seed or screenings have been found to meet the requirements of the act and these regulations: *Provided, however,* That if each and every container of such seed or screenings bears a sufficient mark of identification, collectors of customs may release from customs custody for delivery to the owner or consignee shipments which have been sampled, pending examination and decision in the matter, upon the execution on the appropriate form of a customs single-entry bond in such amount as is prescribed for such bond in customs regulations in force on date of entry, which bond shall contain a condition for the redelivery of the seed or screenings or any part thereof upon demand of the collector of customs at any time. Prior to being so admitted, the seed or screenings shall be kept intact and not tampered with in any way, or removed from the containers except under supervision as provided by regulation. The bond shall be filed with the collector of customs, who, in case of default, shall take appropriate action to effect the collection of liquidated damages equal to the invoice value of the entire shipment, plus the estimated duty thereon, if any.

**201.219 Notice of removal.**—The owner or consignee shall keep the Agricultural Marketing Service informed as to the location of seed or screenings subject to the act, after sampling by the collector of customs but before being finally admitted into the commerce of the United States.

## EVIDENCE AS TO COUNTRY OR REGION WHERE SEED WAS GROWN

**201.220 Certificate or declaration of origin.**—(a) A certificate, attached to the invoice, of the properly authorized official of the foreign country in which the seed was grown, to the effect that the seed of alfalfa or red clover or any mixture of seeds containing 10 percent or more of either or both of such seed was grown in that country, will be regarded as *prima facie* evidence of such fact. This certificate shall be in the following form:

## CERTIFICATE OF ORIGIN BY FOREIGN OFFICIAL

City \_\_\_\_\_, County \_\_\_\_\_, date \_\_\_\_\_.  
 I, \_\_\_\_\_, hereby certify  
 (Name of official)  
 that the seed contained in \_\_\_\_\_ bags, marked \_\_\_\_\_, described in invoice \_\_\_\_\_ (Number or date)  
 to which this certificate is attached, was grown in \_\_\_\_\_ (Name of country or countries or part thereof)  
 \_\_\_\_\_ (Name of official)  
 \_\_\_\_\_ (Official title)

(b) A declaration of the shipper attached to the invoice stating the country in which the seed of alfalfa or the seed of red clover or any mixture of seeds containing 10 percent or more of either or both of such seeds was grown will be regarded as *prima facie* evidence of such fact. The declaration shall be in the following form:

## DECLARATION OF ORIGIN BY SHIPPER

City \_\_\_\_\_, Country \_\_\_\_\_, date \_\_\_\_\_.  
 I, the undersigned \_\_\_\_\_, the shipper of the seed contained  
 (Name)  
 in \_\_\_\_\_ bags, marked \_\_\_\_\_, described in invoice \_\_\_\_\_, to which this  
 declaration is attached, do hereby certify that such seed was grown in \_\_\_\_\_ (Number or date)  
 (Name of  
 country or countries or part thereof)  
 \_\_\_\_\_ (Signature)

(c) If the information contained in the certificate or declaration provided for in paragraphs (a) and (b) of this regulation is not sufficient to establish the country or region of origin of the seed, or if the consular invoice is not accompanied by such certificate or declaration, other evidence as to the origin may be considered, or the seed may be permitted entry after being stained 10 percent red.

## EXEMPTIONS AND DECLARATIONS

**201.221 Shipments through United States.**—Seed shipped in bond through the United States is not subject to the import requirements of the act.

**201.222 Declaration of purpose.**—(a) Entries covering all importations of seed of—

Celery.	Pea.
Millet, foxtail, German, Hungarian, and golden.	Pepper.
Mustard.	Proso.
	Sorghum.

shall contain a statement by the importer setting forth the use for which imported. When imported for seeding purposes such seed is subject to the import provisions of the act.

(b) Entries covering all importations for seeding purposes of seed of—

Barley.	Oat.
Bean, field.	Rice.
Buckwheat, common.	Rye.
Corn, field.	Soybean.
Cowpea.	Wheat.
Flax.	

shall contain a statement by the importer that such seed is for seeding purposes and such seed is subject to the import requirements of the act.

## SCREENINGS

**201.223 Screenings prohibited entry.**—Screenings of all seed subject to the Federal Seed Act are prohibited entry into the United States except as provided under section 201.224.

**201.224 Screenings permitted entry.**—Screenings of wheat, oats, rye, barley, buckwheat, field corn, sorghum including broomcorn, flax, millet, Proso, soybeans, cowpeas, field peas, and field beans may be imported, provided such screenings are not imported for seeding purposes and are so declared by the words "screenings for processing, not for seeding" in the invoice or other papers required to be presented to the collector of customs.

## SEED ADULTERATED OR UNFIT FOR SEEDING PURPOSES

**201.225 Cleaning or processing.**—Seed which is found under the provisions of the act to be adulterated or unfit for seeding purposes may be cleaned or processed under the supervision of an employee or authorized agent of the United States Department of Agriculture. The cleaning or processing shall be at the expense of the importer who shall also reimburse the Government for the expenses of travel required to perform such supervision. The identity of the seed shall be maintained at all times to the satisfaction of the persons supervising the cleaning or processing. The refuse from such cleaning shall be placed in containers and securely sealed and identified. If upon analysis, test, or examination of a representative sample of the cleaned seed, it is found that the requirements of the act have been met, that portion of the seed may be admitted.

**201.226 Destruction of refuse.**—The refuse from such cleaning shall be destroyed under the supervision of an employee or authorized agent of the United States Department of Agriculture. The destruction of refuse shall be at the expense of the importer who shall also reimburse the Government for the expenses of travel required to perform such supervision.

**201.227 Report to collector of customs.**—A report of the cleaning and processing and the destruction of the refuse, stating the amount by weight in each instance, shall be submitted to the collector of customs at the port of entry of such seed by the Agricultural Marketing Service.

## MISBRANDED SEED

**201.228 Correction of labeling.**—Seed being imported or offered for importation, the labeling of which is false or misleading in any respect, shall be refused admission into the commerce of the United States until such labeling has been corrected to meet the requirements of the act and the rules and regulations.

## MIXING SEED

**201.229 Prohibition against and exception.**—Mixing any seed or screenings with a lot or shipment of seed or screenings offered for entry which has been found to be in violation of the act or these regulations is prohibited, except that in cases where it shall appear to the satisfaction of the Chief of the Agricultural Marketing Service that two or more such lots or shipments of seed or screenings offered for entry are of substantially the same quality and origin, they may be mixed for the purpose of recleaning upon a written permit from the Chief of the Agricultural Marketing Service.

## REJECTED SEED OR SCREENINGS

**201.230 Exportation or destruction.**—Seed or screenings refused admission into the commerce of the United States shall be exported by the owner or consignee within 12 months of the date of notice of such refusal or at the expiration of such 12-month period the rejected seed or screenings shall be destroyed under the supervision of an employee or authorized agent of the United States Department of Agriculture in such manner as may be determined by the Agricultural Marketing Service, which shall make a report of such destruction giving the amount by weight to the collector of customs at the port of entry of such seed or screenings.

## PROCEDURE AS TO PUBLIC HEARINGS

**201.231 Notice and hearing prior to promulgation of rules and regulations.**—Prior to the promulgation of any rule or regulation contemplated by section 402 (b) of the act, notice shall be given by publication in the Federal Register of intention to promulgate such rule or regulation and of the time and place of a public hearing to be held with reference thereto. Such hearing shall be conducted by the Secretary of the Treasury and the Secretary of Agriculture, acting jointly or severally, or by such employee or employees of the Department of Agriculture or of the Department of the Treasury, as the case may be, as may be designated to preside thereat. The presiding officer shall conduct the hearing in an orderly and informal manner, according to such procedure as he may announce at the commencement of the hearing. Any rule or regulation promulgated under section 402 (b) of the act shall become effective on the date fixed in the promulgation, which date shall be not less than 30 days after publication in the Federal Register. Any rule or regulation may be amended or revoked in the same manner as is provided for its promulgation.

Done at Washington, D. C., this 2d day of January 1940. Witness my hand and the seal of the Department of the Treasury.

HERBERT E. GASTON,  
*Acting Secretary of the Treasury.*



Witness my hand and the seal of the Department of Agriculture.

H. A. WALLACE,  
*Secretary of Agriculture.*



[F. R. Doc. 40-45 ; Filed, January 8, 1940 ; 12 : 08 p. m.]

# FEDERAL SEED ACT

Approved August 9, 1939 (53 Stat. 1275)

## AN ACT

To regulate interstate and foreign commerce in seeds; to require labeling and to prevent misrepresentation of seeds in interstate commerce; to require certain standards with respect to certain imported seeds; and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Seed Act."*

## TITLE I—DEFINITIONS

SEC. 101. (a) When used in this Act—

(1) The term "United States" means the several States, Alaska, District of Columbia, Hawaii, and Puerto Rico.

(2) The term "person" includes a partnership, corporation, company, society, or association.

(3) The term "interstate commerce" means—

(A) commerce between any State, Territory, possession, or the District of Columbia, and any other State, Territory, possession, or the District of Columbia; or

(B) commerce between points within the same State, Territory, or possession, or the District of Columbia, but through any place outside thereof; or

(C) commerce within the District of Columbia.

(4) For the purposes of this Act with respect to labeling for variety and origin (but not in anywise limiting the foregoing definition), seeds shall be considered to be in interstate commerce, or delivered for transportation in interstate commerce, if such seeds are part of, or delivered for transportation in, that current of commerce usual in the transportation and/or merchandising of seeds, whereby such seeds are sent from one State with the expectation that they will end their transit in another, including, in addition to cases within the above general description, all cases where seeds are transported or delivered for transportation to another State, or for processing or cleaning for seeding purposes within the State and shipment outside the State of the processed or cleaned seeds. Seeds normally in such current of commerce shall not be considered out of such current through resort being had to any means or device intended to remove transactions in respect thereto from the provisions of this Act.

(5) The term "foreign commerce" means commerce between the United States, its possessions, or any Territory of the United States, and any foreign country.

(6) (a) The term "district court of the United States" means any court exercising the powers of a district court of the United States.

(b) The term "circuit court of appeals," in case the principal place of business or the place of residence of a person against whom a cease and desist order is issued is in the District of Columbia, includes the Court of Appeals of the District of Columbia.

(7) The term—

(A) "Agricultural seeds" shall include grass, forage, and field crop seeds, as follows:

*Agropyron cristatum (L.) Beauv.—Crested wheatgrass.*

*Agropyron pauciflorum (Schwein.) Hitchc.—Slender wheatgrass.*

*Agropyron smithii Rydb.—Bluestem.*

*Agrostis alba L.—Redtop.*

*Agrostis canina L.—Velvet bent.*

- Agrostis palustris* Huds.—Creeping bent.  
*Agrostis* spp.—Bentgrasses.  
*Avena* spp.—Oat.  
*Beta vulgaris* L.—Field beet, excluding sugar beet.  
*Brassica napus* L.—Winter rape.  
*Bromus inermis* Leyss.—Smooth brome.  
*Chloris gayana* Kunth.—Rhodes grass.  
*Cynosurus cristatus* L.—Crested dogtail.  
*Dactylis glomerata* L.—Orchard grass.  
*Echinochloa crusgalli* frumentacea (Roxb.) Wight.—Japanese millet.  
*Fagopyrum vulgare* Hill.—Common buckwheat.  
*Festuca* spp.—Fescue.  
*Gossypium* spp.—Cotton.  
*Hordeum* spp.—Barley.  
*Lespedeza sericea* (Thumb.) Miq.—Chinese lespedeza.  
*Lespedeza stipulacea* Maxim.—Korean lespedeza.  
*Lespedeza striata* (Thumb.) Hook and Arn.—Common and Kobe lespedeza.  
*Linum usitatissimum* L.—Flax.  
*Lolium multiflorum* Lam.—Italian ryegrass.  
*Lolium perenne* L.—Perennial ryegrass.  
*Medicago arabica* (L.) All.—Bur-clover.  
*Medicago hispida* Gaertn.—Bur-clover.  
*Medicago lupulina* L.—Black medick.  
*Medicago sativa* L.—Alfalfa.  
*Melilotus alba* Desr.—White sweetclover.  
*Melilotus indica* (L.) All.—Sourclover.  
*Melilotus officinalis* (L.) Lam.—Yellow sweetclover.  
*Melinis minutiflora* Beauv.—Molasses grass.  
*Oryza sativa* L.—Rice.  
*Panicum fasciculatum* Swartz.—Browntop millet.  
*Panicum miliaceum* L.—Proso.  
*Paspalum dilatatum* Poir.—Dallis grass.  
*Paspalum notatum* Fluegge.—Bahia grass.  
*Pennisetum glaucum* (L.) R. Br.—Pearl millet.  
*Pennisetum purpureum* Schumach.—Napier grass.  
*Phleum pratense* L.—Timothy.  
*Phalaris arundinacea* L.—Reed canary grass.  
*Pisum sativum arvense* L. (Poir.).—Field pea, Austrian winter pea.  
*Poa annua* L.—Annual bluegrass.  
*Poa compressa* L.—Canada bluegrass  
*Poa nemoralis* L.—Wood bluegrass.  
*Poa pratensis* L.—Kentucky bluegrass.  
*Poa trivialis* L.—Rough bluegrass.  
*Secale cereale* L.—Rye.  
*Setaria italica* (L.) Beauv.—Foxtail, German, Hungarian, or golden millet.  
*Soja max* (L.) Piper.—Soybean.  
*Sorghum vulgare* Pers.—Sorghum.  
*Sorghum vulgare sudanense* (Piper) Hitchc.—Sudan grass.  
*Stizolobium utile* (Wall.) Piper and Tracy.—Velvetbean.  
*Trifolium dubium* Sibth.—Suckling clover.  
*Trifolium hybridum* L.—Alsike clover.  
*Trifolium incarnatum* L.—Crimson clover.  
*Trifolium pratense* L.—Red clover.  
*Trifolium repens* L.—White clover.  
*Triticum* spp.—Wheat; spelt; emmer.  
*Vicia angustifolia* (L.) Reich.—Narrowleaf vetch.  
*Vicia atropurpurea* Desf.—Purple vetch.  
*Vicia dasycarpa* Ten.—Woollypod vetch.  
*Vicia monantha* Desf.—Monantha vetch.  
*Vicia pannonica* Crantz.—Hungarian vetch.  
*Vicia sativa* L.—Common vetch.  
*Vicia villosa* Roth.—Hairy vetch.  
*Vigna sinensis* (Torner) Savi.—Cowpea.  
*Zea mays* L.—Field corn:  
*Provided*, That the Secretary of Agriculture is authorized by rules and regulations to add to or take from such list of agricultural seed, when

he finds that any seeds are or are not used for seeding purposes in the United States.

(B) "Vegetable seeds" shall include the seeds of those crops that are or may be grown in gardens or on truck farms and are or may be generally known and sold under the name of vegetable seeds.

(8) (A) For the purpose of title II, the term "weed seeds" means the seeds or bulblets of plants recognized as weeds either by the law or rules and regulations of—

(i) The State into which the seed is offered for transportation, or transported; or

(ii) Alaska, Hawaii, Puerto Rico, or District of Columbia into which transported, or District of Columbia in which sold.

(B) For the purpose of title III, the term "weed seeds" means seeds or bulblets of plants which are found by the Secretary of Agriculture to be detrimental to the agricultural interests of the United States, or any part thereof.

(9) (A) For the purpose of title II, the term "noxious-weed seeds" means the seeds or bulblets of plants recognized as noxious—

(i) by the law or rules and regulations of the State into which the seed is offered for transportation, or transported;

(ii) by the law or rules and regulations of Alaska, Hawaii, Puerto Rico, or the District of Columbia, into which transported, or District of Columbia in which sold; or

(iii) by the rules and regulations of the Secretary of Agriculture under this Act, when after investigation he shall determine that a weed is noxious in the United States or in any specifically designated area thereof.

(B) For the purpose of title III, the term "noxious-weed seeds" means the seeds of *Lepidium draba* L., *Lepidium repens* (Schrenk) Boiss, *Hymenophyllum pubescens* C. A. Mey., white top; *Cirsium arvense* (L.) Scop., Canada thistle; *Cuscuta* spp., dodder; *Agropyron repens* (L.) Beauv., quackgrass; *Sorghum halepense* (L.) Pers., Johnson grass; *Convolvulus arvensis* L., bindweed; *Centaurea pieris* Pall., Russian knapweed; *Sonchus arvensis* L., perennial sow-thistle; *Euphorbia esula* L., leafy spurge; and seeds or bulblets of any other kinds which after investigation the Secretary of Agriculture finds should be included.

(10) The term "origin" means the State, Alaska, District of Columbia, Hawaii, Puerto Rico, or possession of the United States, or the foreign country, or designated portion thereof, where the seed was grown.

(11) The term "kind" means one or more related species or sub-species which singly or collectively is known by one common name, for example, wheat, oat, vetch, sweetclover, cabbage, cauliflower, and so forth.

(12) The term "variety" means a subdivision of a kind which is characterized by growth, plant, fruit, seed, or other characters by which it can be differentiated from other sorts of the same kind, for example, Marquis wheat, Flat Dutch cabbage, Manchu soybeans, Oxheart carrot, and so forth.

(13) The term "type" means either (A) a group of varieties so nearly similar that the individual varieties cannot be clearly differentiated except under special conditions, or (B) when used with a variety name means seed of the variety named which may be mixed with seed of other varieties of the same kind and of similar character, the manner of and the circumstances connected with the use of the designation to be governed by rules and regulations prescribed under section 402 of this Act.

(14) The term "germination" means the percentage of seeds capable of producing normal seedlings under ordinarily favorable conditions (not including seeds which produce weak, malformed, or obviously abnormal sprouts), determined by methods prescribed under section 403 of this Act.

(15) The term "hard seeds" means the percentage of seeds which because of hardness or impermeability do not absorb moisture or germinate under prescribed tests but remain hard during the period prescribed for germination of the kind of seed concerned, determined by methods prescribed under section 403 of this Act.

(16) The term "inert matter" means all matter not seeds, and includes among others broken seeds, sterile florets, chaff, fungus bodies, and stones, determined by methods prescribed under section 403 of this Act.

(17) The term "pure live seed" for the purpose of title III means that portion of any lot of seed subject to this Act that consists of live agricultural or vegetable seed determined by methods prescribed under section 403 of this Act.

(18) The term "label" means the display or displays of written, printed, or graphic matter upon or attached to the container of seed.

(19) The term "labeling" includes all labels, and other written, printed, and graphic representations, in any form whatsoever, accompanying and pertaining to any seed whether in bulk or in containers, and includes invoices.

(20) The term "advertisement" means all representations, other than those on the label, disseminated in any manner or by any means, relating to seed within the scope of this Act.

(21) Subject to such tolerances as the Secretary of Agriculture is authorized to prescribe under the provisions of this Act—

(A) the term "false labeling" means any labeling which is false or misleading in any particular;

(B) the term "false advertisement" means any advertisement which is false or misleading in any particular.

(22) The term "screenings" shall include chaff, sterile florets, immature seed, weed seed, inert matter, and any other materials removed in any way from any seeds in any kind of cleaning or processing and which contain less than 25 per centum of live agricultural or vegetable seeds.

(23) The term "in bulk" refers to seed when loose either in vehicles of transportation or in storage, and not to seed in bags or other containers.

## TITLE II—INTERSTATE COMMERCE

### PROHIBITIONS RELATING TO INTERSTATE COMMERCE IN CERTAIN SEEDS

SEC. 201. It shall be unlawful for any person to transport or deliver for transportation in interstate commerce—

(a) Any agricultural seeds or any mixture of agricultural seeds for seeding purposes, unless each container bears a label giving the following information in accordance with rules and regulations prescribed under section 402 of this Act:

(1) The name of (A) kind, or (B) kind and variety, or (C) kind and type, for each agricultural seed component present in excess of 5 per centum of the whole and the percentage by weight of each: *Provided*, That such components are expressed in accordance with the category designated under (A), (B), or (C);

(2) Lot number or other identification;

(3) Origin, stated in accordance with paragraph (a) (1) of this section, of each agricultural seed present which has been designated by the Secretary of Agriculture as one on which a knowledge of the origin is important from the standpoint of crop production, if the origin is known, and if each such seed is present in excess of 5 per centum. If the origin of such agricultural seed or seeds is unknown, that fact shall be stated;

(4) Percentage by weight of weed seeds, including noxious-weed seeds;

(5) Kinds of noxious-weed seeds and the rate of occurrence of each, which rate shall be expressed in accordance with and shall not exceed the rate allowed for shipment, movement, or sale of such noxious-weed seeds by the law and regulations of the State into which the seed is offered for transportation or transported or in accordance with the rules and regulations of the Secretary of Agriculture, when under the provisions of section 101 (a) (9) (A) (iii) he shall determine that weeds other than those designated by State requirements are noxious;

(6) Percentage by weight of agricultural seeds other than those included under paragraph (a) (1) of this section;

(7) Percentage by weight of inert matter;

(8) For each agricultural seed, in excess of 5 per centum of the whole, stated in accordance with paragraph (a) (1) of this section, (A) percentage of germination, exclusive of hard seed, (B) percentage of hard seed, if present, (C) the calendar month and year the test was completed to determine such percentages;

(9) Name and address of (A) the person who transports, or delivers for transportation, said seed in interstate commerce, or (B) the person to whom the seed is sold or shipped for resale, together with a code designation approved by the Secretary of Agriculture under rules and regulations prescribed under section

402 of this Act, indicating the person who transports or delivers for transportation said seed in interstate commerce;

(b) Any vegetable seeds, for seeding purposes, in containers, unless each container bears a label giving the following information in accordance with rules and regulations prescribed under section 402 of this Act;

(1) Name of kind and variety of seed;

(2) For seeds which germinate less than the standard last established by the Secretary of Agriculture, as provided under section 403 (c) of this Act—

(i) percentage of germination, exclusive of hard seed;

(ii) percentage of hard seed, if present;

(iii) the calendar month and year the test was completed to determine such percentages;

(iv) the words "Below Standard"; and

(3) Name and address of—

(A) The person who transports, or delivers for transportation, said seed in interstate commerce; or

(B) the person to whom the seed is sold or shipped for resale, together with a code designation approved by the Secretary of Agriculture under rules and regulations prescribed under section 402 of this Act, indicating the person who transports or delivers for transportation said seed in interstate commerce.

(c) Any agricultural or vegetable seed unless the test to determine the percentage of germination required by this section shall have been completed within a five-month period, exclusive of the calendar month in which the test was completed, immediately prior to transportation or delivery for transportation in interstate commerce: *Provided, however,* That the Secretary of Agriculture may by rules and regulations designate: (a) a shorter period for kinds of agricultural or vegetable seed which he finds under ordinary conditions of handling will not maintain, during the aforesaid five-month period, a germination within the established limits of tolerance; or (b) a longer period not to exceed nine months, exclusive of the calendar month in which the test was completed, for kinds of agricultural or vegetable seed which he finds under ordinary conditions of handling will maintain during such longer period a germination within the established limits of tolerance.

(d) Any agricultural seeds or vegetable seeds having a false labeling, or pertaining to which there has been a false advertisement, or to sell or offer for sale such seed for interstate shipment by himself or others.

(e) Seed which is required to be stained under the provisions of this Act and the regulations made and promulgated thereunder, and is not so stained.

(f) Seed which has been stained to resemble seed stained in accordance with the provisions of this Act and the regulations made and promulgated thereunder.

(g) Seed which is a mixture of seeds which are required to be stained or which are stained with different colors under the provisions of this Act and of the regulations made and promulgated thereunder, or which is a mixture of any seed required to be stained under the provisions of this Act and of the regulations made and promulgated thereunder, with seed of the same kind produced in the United States.

(h) Screenings of any seed subject to this Act, unless they are not intended for seeding purposes; and it is stated on the label, if in containers, or on the invoice if in bulk, that they are intended for cleaning, processing, or manufacturing purposes, and not for seeding purposes.

#### RECORDS

SEC. 202. All persons transporting, or delivering for transportation, in interstate commerce agricultural seeds shall keep for a period of three years a complete record of origin, germination, and purity of each lot of agricultural seed offered, and the Secretary of Agriculture, or his duly authorized agents, shall have the right to inspect such records for the purpose of the effective administration of this Act.

#### EXEMPTIONS

SEC. 203. (a) The provisions of sections 201 and 202 shall not apply to any carrier in respect to any seed transported or delivered for transportation in the ordinary course of its business as a carrier: *Provided, However,* That such carrier is not engaged in processing or merchandising seed subject to the provisions of this Act; and such provisions shall not apply to seeds produced by any farmer on his

own premises and sold by him directly to the consumer, provided such farmer is not engaged in the business of selling seeds not produced by him: *And provided further*, That such seeds produced or sold by him when transported or offered for transportation to any State, Territory, or District, shall not be exempted from the provisions of sections 201 and 202 unless said seeds shall be in compliance with the operation and effect of the laws of such State, Territory, or District, enacted in the exercise of its police power, to the same extent and in the same manner as though such seed had been produced, sold, offered or exposed for sale in such State, Territory, or District, and shall not be exempted therefrom by reason of being introduced therein in original packages or otherwise: *And provided further*, That such seeds produced or sold by him are in compliance with the seed laws of the State into which the seed is transported.

(b) The provisions of section 201 (a) or (b) shall not apply—

(1) to seed or grain not intended for seeding purposes when transported or offered for transportation in ordinary channels of commerce usual for such seed or grain intended for manufacture or for feeding; or

(2) to seed intended for seeding purposes when transported or offered for transportation in interstate commerce—

(A) if in bulk, in which case, however, the invoice pertaining to such seed shall bear the various statements required for the respective seeds under section 201 (a) and (b); or

(B) if consigned to a seed cleaning or processing establishment, to be cleaned or processed for seeding purposes: *Provided*, That this fact is so stated in the invoice, if in bulk, or on attached labels, if in containers: *Provided further*, That any such seed later to be labeled as to origin and/or variety, and for which consecutive records are necessary to establish these facts, shall be labeled as to these items in accordance with rules and regulations prescribed under section 402 of this Act.

(c) When the Secretary of Agriculture finds that, because of the time interval between seed harvesting and sowing, or because of an emergency beyond human control, the information required by this Act as to the germination, and hard seed of certain kinds of seeds, cannot be given prior to transportation or delivery for transportation in interstate commerce, he may promulgate, with or without a hearing, rules and regulations providing that the provisions of section 201 (a) and (b) as to the required labeling for germination and hard seed shall not apply for such period and to such kinds of seed as he may specify in his said rules and regulations.

(d) The provisions of section 201 (a) and (b) relative to the labeling of agricultural and vegetable seeds with the percentages of the kind or variety or type of seeds shall not be deemed violated if there be other seeds in the container or bulk which could not be, or were not, identified because of their indistinguishability in appearance from the seeds intended to be transported or delivered for transportation in interstate commerce, provided that the records of the person charged with the duty under said section of labeling or invoicing the seeds, kept in accordance with the rules and regulations of the Secretary of Agriculture, together with other pertinent facts, disclose that said person has taken all proper precautions to insure the identity to be that stated.

#### DISCLAIMERS AND NONWARRANTIES

SEC. 204. The use of a disclaimer or nonwarranty clause in any invoice, advertising, labeling, or written, printed, or graphic matter, pertaining to any seed shall not constitute a defense, or be used as a defense in any way, in any prosecution, or in any proceeding for confiscation of seeds, brought under the provisions of this Act, or the rules and regulations made and promulgated thereunder.

#### FALSE ADVERTISING

SEC. 205. It shall be unlawful for any person to disseminate, or cause to be disseminated, any false advertisement concerning seed, by the United States mails, or in interstate or foreign commerce, in any manner or by any means, including radio broadcasts: *Provided, however*, That no person, advertising agency, or medium for the dissemination of advertising, except the person who transported, delivered for transportation, sold, or offered for sale seed to which the false advertisement relates, shall be liable under this section by reason of disseminating or causing to be disseminated any false advertisement, unless he

or it has refused, on the request of the Secretary of Agriculture, to furnish the Secretary the name and postoffice address of the person, or advertising agency, residing in the United States, who caused, directly or indirectly, the dissemination of such advertisement.

### TITLE III—FOREIGN COMMERCE

#### PROHIBITIONS AND PROCEDURES RELATING TO IMPORTATIONS

SEC. 301. (a) The importation into the United States is prohibited of—

(1) any seed containing 10 per centum or more of any agricultural or vegetable seeds if any such seed is adulterated or unfit for seeding purposes, or is required to be stained and is not so stained, under the terms of this title, or the labeling of which is false or misleading in any respect;

(2) screenings of any seeds subject to title III of this Act (except that this shall not apply to screenings of wheat, oats, rye, barley, buckwheat, field corn, sorghum, broomcorn, flax, millet, proso, soybeans, cowpeas, field peas, or field beans, which are not imported for seeding purposes and are declared for cleaning, processing, or manufacturing purposes, and not for seeding purposes);

(3) any seed containing 10 per centum or more of the seeds of alfalfa or red clover, which has been stained prior to being offered for entry in a manner that does not permit compliance with the provisions of this title and the regulations made and promulgated thereunder.

SEC. 302. (a) The Secretary of the Treasury shall deliver to the Secretary of Agriculture, subject to joint rules and regulations prescribed under section 402 of this Act, samples of seed and screenings which are being imported into the United States, or offered for import, giving notice thereof to the consignee, and if it appears from the examination of such samples that any seed or screenings offered to be imported into the United States are subject to the provisions of this title and do not comply with the provisions of this title, or if the labeling of such seed is false or misleading in any respect, such seed or screenings shall be refused admission, and the Secretary of the Treasury shall refuse delivery to the consignee, who may appear, however, before the Secretary of Agriculture and show cause why the seed or screenings should be admitted. Seed or screenings refused admission and not exported by the consignee within twelve months from the date of notice of such refusal shall be destroyed in accordance with joint rules and regulations prescribed under section 402 of this Act: *Provided*, That the Secretary of the Treasury may deliver to the consignee such seed or screenings pending examination and decision in the matter or for staining, if it be seed which is required to be stained, or for cleaning, on the execution of a redelivery bond for such amount as may be necessary under joint rules and regulations prescribed under section 402 of this Act, and on refusal to return such seed or screenings for any cause to the custody of the Secretary of the Treasury, when demanded, for the purpose of excluding such seed or screenings from the country, or for any other purpose, said consignee shall forfeit the full amount of the bond as liquidated damages: *And provided further*, That all charges for storage, cartage, and labor on the seed or screenings which are refused admission or delivery, shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against future importation made by such owner or consignee.

(b) The refuse from any seeds or screenings which are allowed to be cleaned under bond shall be destroyed in accordance with joint rules and regulations prescribed under section 402 of this Act.

(c) The provisions of this title shall not apply—

(1) when seed is shipped in bond through the United States, or

(2) when the Secretary of Agriculture finds that a substantial proportion of the importations of any kind of seed is used for other than seeding purposes, and he provides by rules and regulations that seed of such kind not imported for seeding purposes shall be exempted from the provisions of the Act: *Provided*, That importations of such kinds of seed shall be accompanied by a declaration setting forth the use for which imported when and as required under joint rules and regulations prescribed under section 402 of this Act.

## ADULTERATED SEED

SEC. 303. Seed subject to the provisions of section 301 is adulterated if any kind of such seed contains more than 5 per centum by weight of seed or seeds of another kind or kinds of similar appearance: *Provided*, That the mixture of the seed of white and alsike clover, or red clover and alsike clover, shall not be deemed to be adulterated, and that other seed mixtures of similar kinds of seeds of similar appearance shall not be deemed to be adulterated when the Secretary of Agriculture finds and prescribes by order that the importation of such seed mixtures for planting is not detrimental to the user of such seeds.

## SEED UNFIT FOR SEEDING PURPOSES

SEC. 304. Seed subject to the provisions of section 301 is unfit for seeding purposes—

(a) If any such seed contains noxious-weed seed at a rate in excess of—

(1) one noxious-weed seed in each ten grams of the seed of timothy, orchard grass, bromegrass, crested wheatgrass, slender wheatgrass, rye-grass, sweetclover, alfalfa, millet, rape, flax, clovers, and species of Agrostis, Festuca, or Poa, or any kind of seed of a size and weight similar to or less than those named;

(2) one noxious-weed seed in each twenty-five grams of the seed of sorghum, Sudan grass, and buckwheat, or any kind of seed of a size and weight greater than the seeds referred to in (a) (1), but less than seeds referred to in (a) (3) of this section;

(3) one noxious-weed seed in each one hundred grams of the seed of wheat, oats, rye, barley, vetches, and corn, or any seed of a size and weight similar to or greater than such seed.

(b) If any such seed contains more than 2 per centum by weight of weed seeds; or

(c) If any such seed contains less than 75 per centum of pure, live seed, or if any component of such seed present to the extent of 10 per centum or more contains less than 75 per centum of live seed: *Provided*, That when the Secretary of Agriculture shall find that any such seed or any kind of seed present to the extent of 10 per centum or more cannot be produced to contain 75 per centum of pure, live seed, he may set up such standard from time to time for pure, live seed as he finds can be produced.

## CERTAIN SEEDS REQUIRED TO BE STAINED

SEC. 305. (a) Any seed containing 10 per centum or more of the seeds of alfalfa and/or red clover, subject to the provisions of section 301, shall be stained in such manner and to such extent as the Secretary of Agriculture by regulation may prescribe and, when practicable, the color produced by such stain shall indicate the country or region of origin.

(b) Whenever the Secretary of Agriculture, after public hearing, determines that seed of alfalfa or red clover from any foreign country or region is not adapted for general agricultural use in the United States, he shall publish such determination. On and after the expiration of ninety days after the date of such publication, and until such determination is revoked, 10 per centum or more of the seeds in each container of such alfalfa or red clover seed, or any seed containing 10 per centum or more of such alfalfa or red clover seed, shall be stained a red color, in accordance with such regulations as the Secretary of Agriculture may prescribe.

(c) Whenever the origin of the seed of alfalfa or of red clover present in excess of 10 per centum in any seed subject to section 301 of this Act is unestablished, 10 per centum of the seed in each container shall be stained a red color.

(d) Whenever the seeds of alfalfa or of red clover of different origins are present in excess of 10 per centum in any seed subject to section 301 of this Act, and different colors are required by reason of such different origins, 10 per centum of the seed in each container shall be stained red.

(e) Whenever any seed required to be stained under the provisions of this Act is commingled with seed of the same kind grown in the United States, the seed in each container thereof shall be stained 10 per centum red.

## CERTAIN ACTS PROHIBITED

SEC. 306. It shall be unlawful for any person—

- (a) To sell or offer for sale—
  - (1) any seed for seeding purposes if imported under this title for other than seeding purposes;
  - (2) any screenings of any seeds for seeding purposes if imported under this title for other than seeding purposes;
  - (3) any seed which is prohibited entry under the provisions of this Act;
  - (4) any seed which has been stained to resemble seed stained in accordance with the provisions of this Act and the rules and regulations made and promulgated thereunder;
  - (5) any seed stained under the provisions of this Act and the rules and regulations made and promulgated thereunder, when mixed with seed of the same kind produced in the United States;
  - (6) any seed stained with different colors;
  - (7) any seed stained under the provisions of this Act, the labeling of which states that such seed is adapted.
- (b) To change the proportion of seeds stained under the provisions of this Act and the rules and regulations made and promulgated thereunder, or to alter, modify, conceal, or remove in any manner or by any means the color of such stained seeds.

## TITLE IV—GENERAL PROVISIONS

## DELEGATION OF DUTIES

SEC. 401. Any duties devolving upon the Secretary of Agriculture by virtue of the provisions of this Act may with like force and effect be executed by such officer or officers, agent or agents, of the Department of Agriculture as the Secretary may designate for the purpose.

## RULES AND REGULATIONS

SEC. 402. (a) The Secretary of Agriculture shall make such rules and regulations as he may deem necessary for the effective enforcement of this Act, except as otherwise provided in this section.

(b) The Secretary of the Treasury and the Secretary of Agriculture shall make, jointly or severally, such rules and regulations as they may deem necessary for the effective enforcement of title III of this Act.

(c) Prior to the promulgation of any rule or regulation under this Act, due notice shall be given by publication in the Federal Register of intention to promulgate and the time and place of a public hearing to be held with reference thereto, and no rule or regulation may be promulgated until after such hearing. Any rule or regulation shall become effective on the date fixed in the promulgation, which date shall be not less than thirty days after publication in the Federal Register, and may be amended or revoked in the manner provided for its promulgation.

## STANDARDS, TESTS, AND TOLERANCES

SEC. 403. (a) The samplings, analyses, tests, or examinations of seeds made in connection with the administration of this Act shall be made by methods set forth by rules and regulations prescribed under section 402 of this Act.

(b) The Secretary of Agriculture is authorized and directed to make and promulgate by rules and regulations, reasonable tolerances as to the percentages and rates of occurrence required to be stated or required by this Act.

(c) For the purpose of section 201 (b) of this Act, the Secretary of Agriculture is authorized and directed to investigate, determine, establish, and promulgate from time to time such reasonable standards of germination for each kind of vegetable seed as will in his judgment best protect crop production.

## PROHIBITION AGAINST ALTERATIONS

SEC. 404. No person shall detach, alter, deface, or destroy any label provided for in this Act or the rules and regulations made and promulgated thereunder by the Secretary of Agriculture, or alter or substitute seed in a manner that may defeat the purpose of this Act.

## SEIZURE

SEC. 405 (a) Any seed sold, delivered for transportation in interstate commerce, or transported in interstate or foreign commerce in violation of any of the provisions of this Act shall, at the time of such violation or at any time thereafter, be liable to be proceeded against on libel of information and condemned in any district court of the United States within the jurisdiction of which the seed is found.

(b) If seed is condemned by a decree of the court as being in violation of the provisions of this Act, it may be disposed of by the court by—

(1) sale; or

(2) delivery to the owner thereof after he has appeared as claimant and paid the court costs and fees and storage and other proper expenses and executed and delivered a bond with good and sufficient sureties that such seed will not be sold or disposed of in any jurisdiction contrary to the provisions of this Act and the rules and regulations made and promulgated thereunder, or the laws of such jurisdiction; or

(3) destruction.

(c) If such seed is disposed of by sale, the proceeds of the sale, less the court costs and fees and storage and other proper expenses, shall be paid into the Treasury as miscellaneous receipts, but such seed shall not be sold or disposed of in any jurisdiction contrary to the provisions of this Act and the rules and regulations made and promulgated thereunder, or the laws of such jurisdiction.

(d) The proceedings in such libel cases shall conform, as nearly as may be, to the proceedings in admiralty, except that either party may demand trial by jury of any issue of fact joined in any such case; and such proceedings shall be at the suit of and in the name of the United States.

## PENALTIES

SEC. 406. Any person who violates any provision of this Act or the rules and regulations made and promulgated thereunder shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall pay a fine of not more than \$1,000, for the first offense, and upon conviction for each subsequent offense not more than \$2,000.

SEC. 407. When construing and enforcing the provisions of this Act, the act, omission, or failure of any officer, agent, or other person acting for or employed by any person, partnership, corporation, company, society, or association, shall in every case be also deemed to be the act, omission, or failure of such person, partnership, corporation, company, society, or association, as well as that of the person employed.

SEC. 408. Before any violation of this Act is reported by the Secretary of Agriculture to any United States attorney for institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present his views, either orally or in writing, with regard to such contemplated proceeding.

## CEASE AND DESIST PROCEEDINGS

SEC. 409 (a) Whenever the Secretary of Agriculture has reason to believe that any person has violated or is violating any of the provisions of this Act or the rules and regulations made and promulgated thereunder, he shall cause a complaint in writing to be served upon the person, stating his charges in that respect, and requiring the person to attend and testify at a hearing at a time and place designated therein, at least thirty days after the service of such complaint; and at such time and place there shall be afforded the person a reasonable opportunity to be informed as to the evidence introduced against him (including the right of cross-examination), and to be heard in person or by counsel and through witnesses, under such rules and regulations as the Secretary of Agriculture may prescribe. At any time prior to the close of the hearing the Secretary of Agriculture may amend the complaint; but in case of any amendment adding new provisions the hearing shall, on the request of the person, be adjourned for a period not exceeding fifteen days.

(b) If, after such hearing, the Secretary of Agriculture finds that the person has violated or is violating any provisions of the Act or rules and regulations covered by the charges, he shall make a report in writing in which he shall state his findings as to the facts, and shall issue and cause to be served on the person an order requiring such person to cease and desist from continuing such violation. The testimony taken at the hearing shall be reduced to writing and filed in the records of the Department of Agriculture.

(c) Until a transcript of the record in such hearing has been filed in a circuit court of appeals, as provided in section 410, the Secretary of Agriculture at any time, upon such notice and in such manner as he deems proper, but only after reasonable opportunity to the person to be heard, may amend or set aside the report or order, in whole or in part.

(d) Complaints, orders, and other processes of the Secretary of Agriculture under this section may be served by anyone duly authorized by the Secretary of Agriculture, either (1) by delivering a copy thereof to the person to be served, or to a member of the partnership to be served, or to the president, secretary, or other executive officer or a director of the corporation to be served; or (2) by leaving a copy thereof at the principal office or place of business of such person, partnership, or corporation; or (3) by registering and mailing a copy thereof addressed to such person, partnership, or corporation at his or its last known principal office or place of business. The verified return by the person so serving said complaint, order, or other process setting forth the manner of said order shall be proof of the same, and the return post-office receipt for said complaint, order, or other process registered and mailed as aforesaid shall be proof of the service of the same.

SEC. 410. An order made under section 409 shall be final and conclusive unless within thirty days after the service the person appeals to the circuit court of appeals for the circuit in which such person resides or has his principal place of business by filing with the clerk of such court a written petition praying that the Secretary's order be set aside or modified in the manner stated in the petition, together with a bond in such sum as the court may determine, conditioned that such person will pay the costs of the proceedings if the court so directs.

The clerk of the court shall immediately cause a copy of the petition to be delivered to the Secretary, and the Secretary shall forthwith prepare, certify, and file in the court a full and accurate transcript of the record in such proceedings, including the complaint, the evidence, and the report and order. If before such transcript is filed, the Secretary amends or sets aside his report or order, in whole or in part, the petitioner may amend the petition within such time as the court may determine, on notice to the Secretary.

At any time after such transcript is filed the court, on application of the Secretary, may issue a temporary injunction restraining, to the extent it deems proper, the person and his officers, directors, agents, and employees from violating any of the provisions of the order pending the final determination of the appeal.

The evidence so taken or admitted, duly certified and filed as aforesaid as a part of the record, shall be considered by the court as the evidence in the case. The proceedings in such cases in the circuit court of appeals shall be made a preferred cause and shall be expedited in every way.

The court may affirm, modify, or set aside the order of the Secretary.

If the court determines that the just and proper disposition of the case requires the taking of additional evidence, the court shall order the hearing to be reopened for the taking of such evidence in such manner and upon such terms and conditions as the court may deem proper. The Secretary may modify his findings as to the facts, or make new findings, by reason of the additional evidence so taken, and he shall file such modified or new findings and his recommendations, if any, for the modification or setting aside of his order, with the return of such additional evidence.

If the circuit court of appeals affirms or modifies the order of the Secretary, its decree shall operate as an injunction to restrain the person and his officers, directors, agents, and employees from violating the provisions of such order or such order as modified.

SEC. 411. If any person against whom an order is issued under section 409 fails to obey the order, the Secretary of Agriculture, or the United States, by its Attorney General, may apply to the circuit court of appeals of the United

States, within the circuit where the person against whom the order was issued resides or has his principal place of business, for the enforcement of the order, and shall certify and file with its application a full and accurate transcript of the record in such proceedings, including the complaint, the evidence, the report, and the order. Upon such filing of the application and transcript the court shall cause notice thereof to be served upon the person against whom the order was issued. The evidence to be considered, the procedure to be followed, and the jurisdiction of the court shall be the same as provided in section 410 for applications to set aside or modify orders.

The proceedings in such cases shall be made a preferred cause and shall be expedited in every way.

#### SEPARABILITY OF PROCEEDINGS

SEC. 412. The institution of any one of the proceedings provided for in sections 405, 409, 410, and 411, or criminal prosecution under section 406 shall not bar institution of any of the others. However, nothing in this Act shall be construed as requiring the Secretary of Agriculture to recommend prosecution or institution of libel proceedings, cease and desist proceedings or proceedings for the enforcement of a cease and desist order, for minor violations of this Act whenever he believes that the public interest will be adequately served by suitable written notice or warning.

SEC. 413. (a) In carrying on the work herein authorized, the Secretary of Agriculture, or any officer or employee designated by him for such purpose, shall have power to hold hearings, administer oaths, sign and issue subpoenas, examine witnesses, take depositions, and require the production of books, records, accounts, memoranda, and papers, and have access to office and warehouse premises. Upon refusal by any person to appear, testify, or produce pertinent books, records, accounts, memoranda, and papers in response to a subpoena, or to permit access to premises, the proper United States district court shall have power to compel obedience thereto.

(b) Witnesses summoned before the Secretary or any officer or employee designated by him shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like service in the courts of the United States.

#### PUBLICATION

SEC. 414. After judgment by the court, or the issuance of a cease and desist order, in any case arising under this Act, notice thereof shall be given by publication in such manner as may be prescribed in the rules and regulations made and promulgated under this Act.

#### AUTHORIZATION FOR APPROPRIATIONS

SEC. 415. (a) There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for administering this Act.

(b) Funds appropriated for carrying into effect the purpose of this Act shall be available for allotment by the Secretary of Agriculture to the bureaus and offices of the Department of Agriculture and for transfer to other departments and agencies of the Government which the Secretary of Agriculture may call upon to assist or cooperate in carrying out such purposes or for services rendered or to be rendered in connection therewith.

#### AUTHORIZATION FOR EXPENDITURES

SEC. 416. The Secretary of Agriculture is authorized to make such expenditures for rent, outside of the District of Columbia, printing, binding, telegrams, telephones, books of reference, publications, furniture, stationery, office and laboratory equipment, travel, and other supplies, including reporting services, such research necessary to develop methods of processing, bulking, blending, sampling, testing, and merchandising seeds necessary to the administration of this Act and other necessary expenses in the District of Columbia and elsewhere, and as may be appropriated for by the Congress.

## COOPERATION

SEC. 417. The Secretary of Agriculture is authorized to cooperate with any other department or agency of the Federal Government; or with any State, Territory, District, or possession, or department, agency, or political subdivision thereof; or with any producing, trading, or consuming organization, whether operating in one or more jurisdictions, in carrying out the provisions of this Act.

## SEPARABILITY OF PROVISIONS

SEC. 418. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act, and the application of such provisions to other persons or circumstances, shall not be affected thereby.

## REPEALS

SEC. 419. The Importation of Adulterated Seeds Act, approved August 24, 1912, as amended August 11, 1916, and as amended April 26, 1926 (7 U. S. C., 111-116, inclusive), is hereby repealed on the one hundred and eightieth day after the passage of this Act: *Provided, however,* That the notices with respect to imported alfalfa and red clover seed promulgated by the Secretary of Agriculture under the authority of the Importation of Adulterated Seeds Act, approved August 24, 1912, as amended (7 U. S. C., 111-116, inclusive), and now in effect, shall remain with the same full force and effect as if promulgated under this Act.

## EFFECTIVE DATE

SEC. 420. This Act shall take effect as follows: As to agricultural seeds, and the importation of vegetable seeds, on the one hundred and eightieth day after its enactment; as to vegetable seeds in interstate commerce, one year after its enactment; and as to sections 401, 402, and 403, on the date of its enactment.

Approved, August 9, 1939.





UNITED STATES DEPARTMENT OF AGRICULTURE  
Agricultural Marketing Service

(Title 7, Chapter I)

Finding and Order Under Federal Seed Act Re Importations of  
Mixtures of Seed of White Clover and Suckling Clover

By virtue of authority vested in the Secretary of Agriculture  
by Section 303 of the Federal Seed Act of August 9, 1939 (53 Stat.  
1275) I hereby find and do prescribe by this order that the importa-  
tion of mixtures of seed of suckling clover (Trifolium dubium) and  
white clover (Trifolium repens) for planting is not detrimental to  
the user of such seeds.

This order shall become effective August 15, 1940.

Grover B. Hill

Acting Secretary of Agriculture

Signed July 25, 1940

